

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

---

In the Matter of the Arbitration Between

Name of Claimants

Mary Jane Andersen & Jeanine M. Andersen

90-02760

Name of Respondents

Barry Bernstein  
Uche Akwuba  
Brennan Ross Securities, Inc.  
Princeton Financial Group  
Madison Chapin Associates, Inc.

---

REPRESENTATION

For Claimants ("Claimants"): Joseph E. Corrado, a sole practitioner.

For Respondent Barry Bernstein ("Bernstein"): Jeffrey Eisenberg, a sole practitioner.

For Respondent Uche Akwuba ("Akwuba"): Dr. Ukwuba was represented by Allen C. Rolle, a sole practitioner; however, on November 4, 1991, Mr. Rolle resigned as Akwuba's attorney.

For Respondent Brennan Ross Securities, Inc. ("BR"): Gordon D. Dihle of Aarestad & Dihle.

For Respondent Princeton Financial Group ("PFG"): Anthony J. Pontieri, President of PFG.

For Respondent Madison Chapin Associates, Inc. ("MCA"): Cynthia DiBartolo, Esq., a sole practitioner.

CASE INFORMATION

Statement of Claim filed: October 2, 1990.  
Claimants' Submission Agreement signed on: October 2, 1990.  
Claimants' Motion to Bar filed: April 22, 1991.

Statement of Answer filed by Respondent Bernstein on: September 5, 1991.  
Respondent Bernstein's Submission Agreement signed on: November

AWARD  
#90-02760

Claimants; that any unauthorized trading took place; and that he misrepresented any facts.

Respondent Akwuba denied the purchases were unsuitable for Claimants; that any unauthorized trading took place; and that he misrepresented any facts.

Respondent BR stated it relied upon the information provided by Claimants on their New Account Application Forms; complied with the orders made by Claimants regarding transactions in their accounts; did not participate in nor was responsible for any activity that might have harmed Claimants and was not liable to Claimants for any alleged losses.

Respondent PFG alleged it executed two (2) transactions for Claimants account both of which were executed a fair market prices and were placed for Claimants by the broker on the account. PFG further maintained Akwuba was not a licensed representative of PFG.

Respondent MCA denied at that time of the alleged trades that Bernstein was employed by MCA as a securities broker. MCA denied any knowledge or information sufficient to form a belief as to the issues of suitability; misrepresentation; and unauthorized trading.

#### RELIEF REQUESTED

Claimants requested: actual damages in the amount of \$30,000.00; interest; costs; fees; expenses and attorney's fees.

Respondent Bernstein requested: the Statement of Claim be dismissed; attorney's fees; costs and expenses.

Respondent Akwuba requested: this action be dismissed and costs.

Respondent BR requested: Claimants' claims be dismissed; attorneys' fees; costs and expenses.

Respondent PFG made no formal plea of relief.

Respondent MCA requested: all claims by Claimants be dismissed; costs, expenses and attorneys' fees.

AWARD  
#90-02760

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the Award while the original remain on file with the NASD.

No representative for Ukwuba, BR, PFG or MCA appeared during the hearings.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearings the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

- 1- Pursuant to the by-laws of the NASD, the arbitrator determined that Respondents Ukwuba, BR, PFG and MCA were required to submit to this arbitration and, therefore, were bound by this arbitrator's rulings and determinations;
- 2- Claimants' Motion for a Default Judgment against Respondents Ukwuba, BR, PFG and MCA was denied;
- 3- Claimants' Motion to Bar Respondent Bernstein's Statement of Answer was denied;
- 4- Respondent Brennan Ross Securities, Inc. is liable and shall pay to Claimants the sum of TEN THOUSAND 00/100 DOLLARS (\$10,000.00);
- 5- Respondent Uche Akwuba is liable and shall pay to Claimants the sum of THIRTEEN THOUSAND FIVE HUNDRED 00/100 DOLLARS (\$13,500.00);
- 6- Respondent Barry Bernstein is liable and shall pay to Claimants the sum of SIX THOUSAND FIVE HUNDRED 00/100 DOLLARS (\$6,500.00);
- 7- All other claims are dismissed;
- 8- The parties shall each bear their own costs, including attorneys' fees.

AWARD  
#90-02760

26, 1991.

Respondent Bernstein's request for extension filed: August 16, 1991.

Respondent Bernstein's affirmation of service of Answer on all parties filed: September 5, 1991.

Statement of Answer filed by Respondent Akwuba on: January 17, 1991.

Respondent Akwuba's Submission Agreement signed on: Pursuant to Section 12 of the Code of Arbitration Procedure, Akwuba's Submission Agreement was signed, but not dated or notarized.

Statement of Answer filed by Respondent BR's on: January 8, 1991. Respondent BR's Submission Agreement signed on: Pursuant to Section 12 of the Code of Arbitration Procedure, BR's Submission Agreement was signed, but not dated or notarized.

Statement of Answer filed by Respondent PFG on: this Statement of Answer was not dated, but was received by the NASD on January 11, 1991.

Respondent PFG's Submission Agreement signed on: January 12, 1991; however, pursuant to section 12 of the Code of Arbitration Procedure no corporate acknowledgment was filed.

Statement of Answer filed by Respondent MCA on: January 24, 1991. Respondent MCA's Submission Agreement signed on: January 23, 1991.

#### HEARING INFORMATION

Hearing Dates/Sessions: December 11, 1991/2 sessions  
December 12, 1991/1 session

Hearing Location: NASD, NYC, NY.

#### CASE SUMMARY

Claimants alleged Akwuba, Bernstein and BR recommended unsuitable purchases for them - namely Dial-A-Brands and Amsnax, Inc. Claimants alleged Akwuba purchased and sold SCS Productions Corp. without authorization and transferred shares of Dial-A-Brands from PFG to MCA without authorization. Claimants also stated Akwuba and Bernstein misrepresented the future performance and risks of the stocks.

Respondent Bernstein denied the purchases were unsuitable for

AWARD  
#90-02760

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the NASD shall retain the \$100.00 non-refundable filing fee previously deposited by the Claimants and the following Forum Fees are assessed.

3 sessions X \$300.00 = \$900.00 minus \$300.00 hearing session deposit = \$600.00

Forum fees Assessed Against:

1- Respondents Brennan Ross Securities, Inc., Barry Bernstein, Uche Akwuba, Princeton Financial Group and Madison Chapin Associates, Inc., jointly and severally, in the amount of \$600.00. Respondents Brennan Ross Securities, Inc., Barry Bernstein, Uche Akwuba, Princeton Financial Group and Madison Chapin Associates, Inc., jointly and severally, shall also reimburse Claimants \$300.00 which equals the hearing session deposit previously deposited by Claimants.

Fees are payable to the National Association of Securities Dealers, Inc.

ARBITRATOR SIGNATURE

  
John S. Van Duser/Public Arbitrator

DATE OF DECISION: December 20, 1991