

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

William Gennaro

91-02198

Name of Respondent(s)

Alvin Gene Rhodus

REPRESENTATION

For Claimant: Claimant William Gennaro appeared pro se.

For Respondent: Respondent Alvin Gene Rhodus appeared pro se.

CASE INFORMATION

Statement of Claim filed: July 18, 1991.

Claimant's Submission Agreement signed on: July 12, 1991.

Respondent's Submission Agreement signed on: August 27, 1991.

Statement of Answer filed by Respondent on: August 30, 1991.

HEARING INFORMATION

Hearing Date/Sessions: January 15, 1992/two sessions

Hearing Location: New York City

CASE SUMMARY

Claimant William Gennaro alleged that Respondent Alvin Gene Rhodus induced him to purchase common stocks such as Environmental Diagnostics, ImmuCell, International Design Group, and Warrentech, representing that Respondent would generate large profits for him. Claimant further alleged that the Respondent never disclosed the risks involved in these investments when Claimant had invested half of his life savings. Claimant alleged that the securities recommended to him by the Respondent were unsuitable. Respondent Alvin Gene Rhodus maintained that the Claimant was a sophisticated investor, that Claimant always discussed speculative investments with him, that full

disclosure was given to the Claimant for all of his investments, and that all information on prospective investments was given to the Claimant prior to purchase.

#### RELIEF REQUESTED

Claimant requested return of \$50,385.00 in exchange for his stock certificates plus interest and expenses. Respondent requested that the claims of the Claimant be dismissed.

#### OTHER ISSUES CONSIDERED & DECIDED

(1) The parties have agreed that 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 originals remain on file with the NASD.

(2) Claimant was permitted to amend his statement of claim to include a claim for "unsuitability," and evidence on this and the other claims were fully adjudicated with full opportunity for direct and cross examination.

#### Report of Arbitrators

The Arbitration Panel carefully considered all of the voluminous documents, the comprehensive oral testimony, and other evidence submitted by the Claimant, and unanimously concluded that there were no substantiating facts, evidence, or testimony, or any other support for the allegations and claims that Respondent Alvin Gene Rhodus misled, misinformed, deceived or engaged in any unfair trade practices, or in any manner whatsoever induced the Claimant to act in any way inimical to his economic interests.

The Claimant Gennaro openly and knowingly, freely, and with full knowledge of the nature and character of the securities with which he was dealing, and without any inducement or coercion, elected to purchase, and hold, the securities in question at this arbitration proceeding.

Accordingly, the Arbitration Panel unanimously concluded that Claimant's allegations and claims against Respondent Rhodus were totally without merit, but declined to impose punitive damages on Claimant for filing and pursuing such unmeritorious claims.

#### AWARD

The undersigned arbitrators have considered the pleadings, the testimony and the evidence presented at the hearing. The arbitration panel also considered the post-hearing statements from the Claimant dated January 16, 1992 and February 19, 1992 as well as the statement from Respondent Alvin Gene Rhodus dated February 13, 1992. The undersigned arbitrators have decided in full and final resolution of all issues submitted for determination as follows:

(1) All claims of the Claimant William Gennaro against Respondent Alvin Gene Rhodus are dismissed with prejudice.

OTHER COSTS

(1) The parties shall each bear their respective costs.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed:

(1) The Claimant is assessed \$800.00 in forum fees as costs of the two hearing sessions conducted in this matter (\$400.00 per hearing session x two hearing sessions = \$800.00). The NASD, Inc. shall retain the initial \$400.00 hearing session deposit previously deposited by the Claimant. The Claimant shall forward to the NASD, Inc. an additional \$400.00 for payment of forum fees assessed.

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

Concurring Arbitrators' Signatures

\_\_\_\_\_  
David M. Kaplan, Esq. (chairperson)

Public Arbitrator

\_\_\_\_\_  
Seymour Freed

Public Arbitrator

\_\_\_\_\_  
James J. Noone

Industry Arbitrator

Dated:

ARBITRATOR'S AFFIRMATION

Pursuant to New York Civil Practice Law and Rules §7507,  
the undersigned having been duly designated as Arbitrator to  
hear and determine the dispute between these parties, does  
hereby affirm, under the penalties of perjury, that he  
personally heard and considered all of the evidence in the  
foregoing matter, and that he executed this Arbitration Award  
on the 16<sup>th</sup> day of MARCH 1992 in the County of  
Queens, City and State of New York.

  
DAVID M. KAPLAN

DATE OF DECISION: March 24, 1992

DAVID M. KAPLAN

B.S. J.D. M.S.E.

*Arbitrator*

—  
Attorney and Counsellor at Law  
—

Concurring Arbitrators' Signatures

David M. Kaplan, Esq. (chairperson)

Public Arbitrator

Seymour Freed  
Seymour Freed

Public Arbitrator

James J. Noone  
James J. Noone

Industry Arbitrator

Executed

Dated: 3/17/92

DATE OF DECISION: March 24, 1992

David M. Kaplan, Esq. (chairperson)

Public Arbitrator

Seymour Freed

Public Arbitrator

*James J. Noone*  
James J. Noone

Industry Arbitrator

EXECUTED

Dated: *Mar 17, 1992*

DATE OF DECISION: March 24, 1992