



Arbitration

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of  
Securities Dealers, Inc.  
NASD Financial Center  
33 Whitehall Street  
New York, N.Y. 10004  
FAX (212) 858-4389

In the Matter of the Arbitration Between

Name of Claimant

Dale D. Elrick, II

91-03704

Name of Respondents

Richard Grieves  
Kenneth Sappington

REPRESENTATION

For Claimant: The Claimant was represented by R. Eugene Lovell, Esq.

For Respondents: The Respondents were represented by Nancy Palmer, Esq.

CASE INFORMATION

Statement of Claim filed: November 25, 1991.

Claimant's Response to the Motion to Dismiss filed on: September 15, 1992.

Claimant's Submission Agreement signed on January 11, 1992 and Power of Attorney executed by Dale O. Elrick, II on January 11, 1992.

Respondent Richard Grieves' Submission Agreement signed on: April 9, 1992.

Joint Statement of Answer filed by Respondents on: April 14, 1992.

Respondent Kenneth Sappington's Submission Agreement signed on: April 9, 1992.

Respondents' Motion to Dismiss filed April 13, 1992 and Request for Ruling filed on: September 14, 1992.

HEARING INFORMATION

Hearing Dates/Sessions: September 30, 1992, 2 Sessions.

Hearing Location: Baltimore, Maryland.

CASE SUMMARY

Claimant alleged that Respondent Richard Grieves failed to execute his open order on August 30, 1990 to buy 1000 shares of Biospherics common stock at 2 1/2 and failed to execute a day buy order on June 10, 1991 for 1000 shares of Biospherics at 4 5/8. Claimant further alleged Respondents denied the stock had ever traded below his price after order entry and failed to resolve the matter.

Respondents Richard Grieves and Kenneth Sappington maintained the orders referenced in the Statement of Claim were not executed as the market for said securities did not reach the limit set by the Claimant and both orders could not be executed and the Claimant's allegation he should be compensated is without legal or factual basis. Respondents further maintained Claimant failed to mitigate his damages. Respondents submitted a Motion to Dismiss alleging the Claimant's claim is without any factual basis and the limit purchase orders could not have been executed.

In response to the Motion to Dismiss the Claimant maintained the Motion to Dismiss should not be granted.

RELIEF REQUESTED

Claimant requested damages of \$27,000.00.

Respondents requested the claim be denied in its entirety.

OTHER ISSUES CONSIDERED & DECIDED

At the hearing the Claimant made a motion to add Alex Brown and Sons Inc. as a party Respondent in this matter which was opposed by the Respondents. The arbitrator denied the Claimant's request to amend his claim.

AWARD

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

1. At the hearing the Claimant withdrew his claim based on the June 10, 1991 day buy order.
2. All other claims by the Claimant be and hereby are dismissed in all respects.
3. Each party shall bear their respective costs including attorneys' fees.

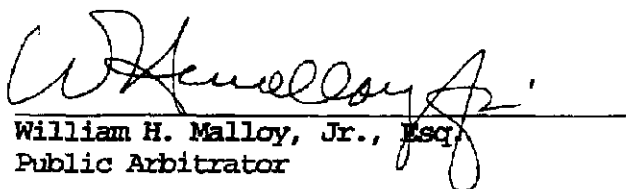
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FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the NASD shall retain the \$300.00 hearing session deposit and \$100.00 claim filing fee previously deposited by the Claimant.

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

ARBITRATOR SIGNATURE

  
William H. Malloy, Jr., Esq.  
Public Arbitrator

Date of Decision: October 21, 1992