

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

Respondents

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on February 25, 1992, Claimant Benjamin J. Wood, who appeared Pro Se, alleged that in August 1990 Respondent Alfred Pietrangelo, an Account Executive with Thomas James Associates, Inc., aggressively tried to solicit him to purchase 500 units of the new issue Dynagen, Inc., at which time, Claimant declined the offer and subsequently, on or about August 15, 1990 Claimant received a confirmation for the unauthorized purchase of Dynagen, Inc. in his account. Claimant further alleged that he immediately contacted Respondent Alfred Pietrangelo to cancel the unauthorized trade in his account. Claimant contended that he advised Respondent Alfred Pietrangelo that he needed cash flow and that he was interested in selling his holdings in Vystar Group, Inc., at which time, Respondent Alfred Pietrangelo discussed using those proceeds from the possible sale to purchase other securities investments whereby Claimant emphasized that he was not in a position to invest at this time. Claimant further contended that on or about April 29, 1991 he received a confirmation for the unauthorized purchase of 2,100 shares of International Consumer Brands, at which time, Claimant immediately returned the confirmation to the clearing house, advising them that he had not authorized the purchase. Claimant asserted that when he received his May 31, 1991 account statement he discovered that on May 1, 1991 Respondent Alfred Pietrangelo had sold his Vystar stock without his knowledge and used the proceeds to purchase the 2,100 shares of International Consumer Brands. Claimant further asserted that when Respondent Alfred Pietrangelo refused to cancel the unauthorized purchase, the Claimant contacted the Managing Director of Thomas James Associates, Inc. and was directed to Respondent John Chepak, Compliance Officer. Claimant argued that Respondent

John Chepak continually failed to return his phone calls and finally on September 6, 1991 Respondent John Chepak concluded that his allegations were without merit whereby Respondent John Chepak based his decision solely on the comments of Respondent Alfred Pietrangelo and without any communication from Claimant. Claimant further argued that Respondent Alfred Pietrangelo's inappropriate handling of his account and Respondent John Chepak's failure to rectify this matter, caused him to sustain losses.

Respondents Alfred Pietrangelo and John Chepak by and through their counsel Michael S. Smith, Esq. of Thomas James Associates, Inc., maintained that in July 1990 he acquired Claimant Benjamin J. Wood's account at Thomas James Associates, Inc., and subsequently in August 1990 he attempted to offer Claimant an opportunity to purchase DynaGen, an initial offering at \$5.00 per unit, at which time, Claimant told him to commit him for 2,000 units or a \$10,000 investment. Respondent Alfred Pietrangelo further maintained that Claimant was allocated 500 units of DynaGen whereby he confirmed the transaction and the receipt of the prospectus, then declined to pay for the stock. Respondent Alfred Pietrangelo contended that he repeatedly tried to contact Claimant and even set up an appointment to meet at Claimant's office to pick-up the check for DynaGen, at which time, Claimant failed to pay for this purchase and advised Respondent Alfred Pietrangelo that he was tied up financially. Respondent Alfred Pietrangelo further contended that on April 24, 1991 he spoke with Claimant to recommend a stock called International Consumer Brands, Inc. ("ICBI") and Claimant advised Respondent Alfred Pietrangelo he could sell his Vystar holdings at \$0.50 net. Respondent Alfred Pietrangelo asserted that approximately seven weeks later he received a letter dated June 13, 1991 from Claimant stating that the purchase of ICBI was unauthorized whereby Claimant had just received his statement and the price of ICBI was now lower than when Claimant had purchased it. Respondent Alfred Pietrangelo further asserted that it appears that Claimant was visibly upset because Vystar didn't perform well and he had chosen to purchase ICBI which was also at a loss, whereby Claimant appears to be blaming someone for his poor choice of investments, therefore, Respondent Alfred Pietrangelo is not liable for Claimant's losses.

Respondent John Chepak by and through his counsel Michael S. Smith, Inc. of Thomas James Associates, Inc. maintained that he was employed by Thomas James Associates, Inc. as its Chief Compliance Officer during the period involved in Claimant's Statement of Claim and Respondent John Chepak proceeded to investigate Claimant's complaint. Respondent John Chepak further maintained that he investigated all of Claimant's allegations, including Claimant's claim that he returned the ICBI "buy" confirmation to Thomas James Associates, Inc. clearing broker whereby Respondent John Chepak discovered that the clearing broker had no record of receiving

anything from Claimant. Respondent John Chepak contended that after a thorough investigation he concluded that Claimant had a tendency toward making unsubstantiated claims of unauthorized trading whereby Claimant had claimed that his original Vystar transaction was unauthorized although he had written a check to pay for the transaction and had not complained to Thomas James Associates, Inc. of the matter for over one year. Respondent John Chepak further contended that based upon his review, he reached the conclusion that Claimant had authorized the challenged transactions whereby he related that conclusion to Claimant in his letter dated September 6, 1991. Respondent John Chepak asserted that Claimant's attempt to seek monetary damages from a compliance officer for doing his job is totally inappropriate.

RELIEF REQUESTED

Claimant Benjamin J. Wood requested \$3,049.50 in actual damages, plus interest at the rate of 6% per annum from May 1, 1991.

Respondents Alfred Pietrangelo and John Chepak requested the claim be dismissed.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, George R. Freund, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on March 9, 1992, by the Respondent Alfred Pietrangelo on April 20, 1992 and by the Respondent John Chepak on April 21, 1992.

And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondents Alfred Pietrangelo and John Chepak are jointly and severally liable and shall pay to the Claimant Benjamin J. Wood the sum of \$3,049.50 in damages.
2. Respondents Alfred Pietrangelo and John Chepak are jointly and severally liable and shall pay to the Claimant Benjamin J. Wood simple interest at the rate of 6% per annum from May 1, 1991 to the date of payment of the award.

3. The parties shall bear their respective costs.
4. The \$125.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Benjamin J. Wood shall be retained by the NASD, Inc. Respondents Alfred Pietrangelo and John Chepak are jointly and severally liable and shall pay to the Claimant the sum of \$125.00 as reimbursement.

AFFIRMATION

I, GEORGE R. FREUND, do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.



Signature of Arbitrator

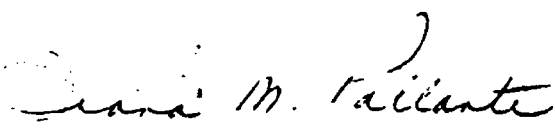
DATE OF DECISION: September 24, 1992

STATE OF:

SS:

COUNTY OF:

On this 21ST day of SEPTEMBER 19 92, before me personally appeared George R. Freund to me known and known before me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.



DIANA M. PALLANTE
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires Mar. 17, 1994