

NATIONAL ASSOCIATION OF SECURITIES DEALERS

Name of Claimant

92-00989

Name of Respondents

**Donald M. Faulkner
Branch Cabell & Co.**

For Claimant Stuart H. Lessans ("Claimant"): Elina Y. Hum, Attorney at Law and Mark Kotlarsky, Attorney at Law.

For Respondents Donald M. Faulkner ("Faulkner") and Branch Cabell & Co. ("Branch Cabell" hereinafter collectively referred to as "Respondents"): Elizabeth F. Edwards, Esq. of the law firm of McGuire Woods Battle & Boothe.

Statement of Claim filed March 18, 1992.

Amended Statement of Claim filed June 3, 1992.

Second Amended Statement of Claim Filed January 18, 1993.

Claimant's Submission Agreement signed on: March 17, 1992.

Joint Statement of Answer filed by Respondents on: May 12, 1992.

Joint Statement of Answer to Amended Statement of Claim filed June 15, 1992.

Branch Cabell's Submission Agreement signed on: April 15, 1992.

Faulkner's Submission Agreement filed on: April 15, 1992.

Hearing Dates/Sessions: January 21, 1993 - two sessions
January 22, 1993 - two sessions

Hearing Location: NASD Office, Washington, D.C.

CASE SUMMARY

Claimant, among other things, alleged that Respondents failed to disclose to Claimant that Mid Atlantic Medical Services, Inc. ("MAMSI") stock was recently included in NASDAQ National Market System or that Faulkner had prepared and Branch Cabell had issued a "buy" recommendation for MAMSI on October 31, 1989 or that Scott & Stringfellow Investment Corp. had issued a "buy" on MAMSI or that Respondent had engaged in a massive and elaborate campaign to solicit sales of shares of the MAMSI stock, or the likely effect of such extensive solicitation activities on the market of MAMSI stock. Claimant alleged that acting upon Faulkner's recommendation, Claimant opened an account with Respondents and allowed Branch Cabell to sell his 9,160 shares of MAMSI stock during March 1990 for a total of \$54,420 (less a \$6.00 fee). Claimant alleged that Respondent failed to disclose the above mentioned pertinent information. Claimant alleged that because Faulkner solicited Claimant to sell his MAMSI stock and his acceptance of this solicitation, Claimant lost the opportunity to make greater profits.

Respondent maintained that Faulkner contacted Claimant in 1990 concerning MAMSI stock. Respondent maintained that during the discussion, Faulkner discussed MAMSI stock prior to Claimant's sale of such stock. Respondents further maintained that Faulkner did not recommend that Claimant sell his MAMSI stock but that Claimant subsequently gave Faulkner an order to sell MAMSI stock if the price reached \$6.00 per share. Respondents maintained that Faulkner executed Claimant's order as requested. Respondents asserted that Claimant's claim is barred by all applicable statutes of limitations and should be barred.

RELIEF REQUESTED

Claimant requested, at the hearing, compensatory damages in the amount of \$316,566, costs and attorneys' fees, plus punitive damages in the amount of \$1,600,000 and RICO damages in the amount of \$633,132.

Respondents requested that Claimant's claim be dismissed and that they be awarded costs and attorneys' fees in the amount of \$25,000.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart copies or

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Lessans Award

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.

Notwithstanding Respondents Motion to Dismiss this claim as barred by all applicable statutes of limitation, the Panel decided this arbitration on the merits.

AWARD

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

1. All Claimant's claims, including his claims for punitive damages and RICO are denied in their entirety.
2. That the respective parties shall bear their own costs, including attorneys' fees, other than those specifically provided for herein.

FORUM FEES

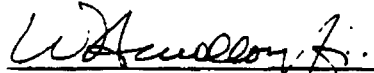
Pursuant to Section 43(c) of the Code of Arbitration Procedure ("Code"), the following Forum Fees are assessed.

4 hearing sessions x \$750 = \$3,000

Pursuant to Section 43(c) of the Code, all hearing sessions fees are assessed against the Claimant. However, Claimant is entitled to offset this amount with his hearing session deposit of \$750, so that the amount due from the Claimant as forum fees is \$2250.

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

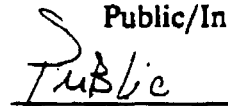
Concurring Arbitrators' Signatures
Name

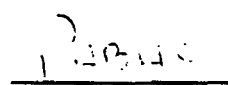

William H. Malloy, Jr., Esq.

Paul Yates


Robert Bennett

Public/Industry


Public


Public


Industry

Date of Decision: March 18th, 1993