

**N.A.S.D. AWARD**

**NATIONAL ASSOCIATION OF SECURITIES DEALERS**

In the Matter of the Arbitration Between

**Name of Claimant(s)**

Phrydon E. Badal

NASD Arbitration  
No. 92-03100

**Name of Respondent(s)**

Roger F. Vierra

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**REPRESENTATION**

For Claimant: Phrydon E. Badal, San Mateo, California

For Respondent: Eric Swett, Esq., Keesal, Young & Logan, San Francisco, California

**CASE INFORMATION**

Statement of Claim filed: September 14, 1992

Claimant's Submission Agreement signed: September 8, 1992

Statement of Answer filed by Respondent: November 25, 1992

Respondent's Submission Agreement signed: November 19, 1992

### **HEARING INFORMATION**

Pre-Hearing Conference: None

Hearing Date(s)/Sessions: April 30, 1993 (two sessions)

Hearing Location: San Francisco, California

### **CASE SUMMARY**

Claimant alleged that Respondent misrepresented the risks associated with the purchase of Cambridge Biotech stock. Claimant also alleged that Respondent strongly recommended Claimant to purchase additional shares of Cambridge Biotech with money from Claimant's IRA account maintained with another brokerage house.

Respondent denied liability for any of the losses allegedly sustained by the Claimant and alleged that Claimant independently elected to purchase shares of Cambridge Biotech based upon Respondent's recommendations. Respondent also denied that he ever misrepresented the risk associated with the Cambridge Biotech transactions or that he claimed to have knowledge concerning Cambridge Biotech not available to the general public or to the Claimant. Respondent further denied that he ever recommended that Claimant withdraw money from Claimant's IRA account to purchase additional shares of Cambridge. Respondent also asserted affirmative defenses.

### **RELIEF REQUESTED**

Claimant requested damages in the amount of \$18,679.00

Respondent requested that Claimant's Statement of Claim be dismissed in its entirety.

### **OTHER ISSUES CONSIDERED & DECIDED**

During the hearing, Claimant requested that he be permitted to amend his Statement of Claim to name Bear Stearns & Co., Inc. After considering oral arguments presented by the parties' representatives, the undersigned arbitrator

denied Claimant's request having determined that the request was untimely.

### **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. All claims by Claimant are dismissed.
2. The parties shall each bear their respective costs including attorney's fees.

### **OTHER COSTS**

None.

### **FORUM FEES**

Pursuant to Section 43c of the Code of Arbitration Procedure, the following forum fees are assessed: The NASD shall retain the \$300.00 hearing session deposit previously deposited by the Claimant. Forum fees are to be split between the parties and are calculated as follows:

Two hearing sessions	@ \$300.00/session	=	\$600.00
Total fees assessed		=	\$600.00
Claimant's share (50%)		=	\$300.00
Credit for hearing deposit		=	\$300.00
Balance due		=	\$ 0.00
Respondent's share (50%)		=	\$300.00
Balance due		=	\$300.00

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

**ARBITRATORS**

Name \_\_\_\_\_ Public/Industry

John B. Reilley, Esq.

Concurring Arbitrator's Signature

  
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John B. Reilley, Esq.

Date of Decision: 5/12/93

Date Served: 05/19/93