

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimants

Jose Peter & Sophy Peter

vs.

Case #  
92-03313

Name of Respondents

South Richmond Securities Inc.  
Raj Pamnani - Third Party Respondent

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**REPRESENTATION**

Claimant was represented by: Steven Kramer, Esq., a sole practitioner.

Respondent South Richmond Securities, Inc. was represented by: Thomas A. Rigilano, Esq. of Gusrae, Kaplan & Bruno.

Third Party Respondent, Raj Pamnani, was represented by: Edward R. Curtain, Esq. of Gerstein, Savage, Kaplowitz & Curtain.

**CASE INFORMATION**

Statement of Claim filed on: October 15, 1992.

Clarification letter dated December 4, 1992.

Claimant's Submission Agreement signed on: July 11, 1992.

Order of Name Change dated: October 18, 1991.

Statement of Answer and Third Party Claim filed by Respondent, South Richmond Securities, Inc. on: May 10, 1993

Respondent, South Richmond Securities, Inc.'s, Submission Agreement signed on: September 20, 1993.

State of Answer filed by Respondent, Raj Pamnani, on: October 8, 1993

Respondent, Raj Pamnani, did not submit an executed Submission Agreement.

### **HEARING INFORMATION**

Pre-Hearing Conference: September 23, 1993  
October 13, 1993

Hearing Dates/Sessions: October 20, 1993 - 2 Sessions  
November 1, 1993 - 2 Sessions  
November 2, 1993 - 2 Sessions  
December 3, 1993 - 2 Sessions  
December 6, 1993 - 1 Session  
December 17, 1993 - 2 Sessions  
December 20, 1993 - 2 Sessions

Hearing Location: NASD Offices - New York, NY

### **CASE SUMMARY**

Claimants allege that before they opened an account with Respondent, South Richmond Securities, Inc. ("South Richmond") they had never had a brokerage account and were unsophisticated investors. Claimants allege that they told Third-Party Respondent, Raj Pamnani ("Pamnani"), that they were saving to buy a house and that they wished to invest conservatively. Claimants maintain that by misrepresenting the suitability of the stocks, Pamnani persuaded them to invest much more than they had intended.

Claimants allege that Pamnani persuaded the Claimants to borrow money from several sources and to invest the amount with him. Claimants allege that the Respondents intentionally or recklessly churned their account for the purpose of generating commissions. Claimants allege that Respondents invested their funds in securities which were unsuitable for them, given their investment objectives.

Respondent, South Richmond Securities, Inc., generally denied the allegations in the statement of claim. South Richmond further asserted a Third Party Claim against Raj Pamnani and alleges that in the event Pamnani engaged in any acts or practices which could form the basis of liability on their part, such acts or practices were undertaken by Pamnani without South Richmond's knowledge. South Richmond asserts that should Claimants obtain an award against them by reason of any of the acts of Pamnani, South Richmond is entitled to recover the full amount against Pamnani.

Third party Respondent, Raj Pamnani, maintained that in their Customer Account Application, Claimants represented their net worth as much higher than it actually was. Pamnani further maintains that the Claimants indicated their investment objectives were appreciation, and speculation. Pamnani maintains that the Claimants advised him that they had experience in the stock market and at no time did the Claimants tell him they had borrowed funds for the purposes of investing.

Pamnani maintains that the Claimants were furnished with all prospectuses and sales materials for each investment, and that each transaction was discussed with the Claimants. Pamnani further maintains that there was little turnover in the Claimants' account and that the commissions generated were minimal. Pamnani maintains that each investment was suitable for the Claimants' account.

#### **RELIEF REQUESTED**

Claimants requested damages in the amount of \$26,803.00 plus interest in the amount of \$10,720.00.

Respondent, South Richmond Securities, Inc. requested that the Claim be dismissed and that they be awarded, over and against Third Party Respondent, Raj Pamnani, the full amount of any award obtained by Claimants against them. South Richmond further requested costs, disbursements and attorney's fees.

Third Party Respondent, Raj Pamnani, requested that the Third Party Claim and the Claim be dismissed and that Claimants be assessed forum fees and costs.

#### **AWARD**

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

- 1) Notwithstanding his failure to execute a written Submission Agreement, Raj Pamnani is bound by this panel's rulings and determinations.
- 2) Respondent, South Richmond Securities, Inc. is hereby liable and shall pay to the Claimants the amount of \$17,987.00 plus interest in the amount of \$4,857.00.

- 3) Third Party Respondent. Raj Pamnani is hereby liable and shall pay to Respondent, South Richmond Securities, Inc., the amount of \$12,847.00 plus interest of \$3,469.00.
- 4) Each party shall bear their respective costs in this action, including attorney's fees.

#### **FORUM FEES**

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

\$120 Non-refundable filing fee for claim  
\$500 Non-refundable filing fee for Third-Party Claim  
\$300 Pre-hearing conference fee (September 23, 1993)  
\$300 Pre-hearing conference fee (October 13, 1993)  
\$5,200 Hearing Session fees (13 sessions x \$400.00)


- 1) The NASD shall retain the \$120.00 non-refundable filing fee paid by the Claimants.
- 2) The NASD shall retain the \$500.00 non-refundable filing fee paid by South Richmond.
- 3) The remaining forum fees in the amount of \$5,800.00 are hereby assessed as follows:
  - a) Claimants are assessed the amount of \$1,140.00. Claimants are entitled to offset this amount with the \$400 hearing session deposit paid to the NASD. Claimants are therefore directed to pay the balance of \$740.00 to the NASD, Inc.
  - b) Respondent, South Richmond Securities, Inc., is assessed the amount of \$2,330.00. South Richmond is entitled to offset this amount with the \$600.00 hearing session deposit previously paid to the NASD, Inc.. South Richmond is directed to pay the balance of \$1,730.00 to the NASD, Inc.
  - c) Respondent, Raj Pamnani, is hereby assessed the amount of \$2,330.00 and shall pay that amount to the NASD, Inc.

#### **ARBITRATION PANEL**

Robert D. Herschmann, Esq.	-	Public Chairperson
Carolyn Wade, Esq.	-	Public Arbitrator
Joseph Brancalone	-	Industry Arbitrator

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Concurring Arbitrator's Signature  
Name

  
Joseph R. Brancalone

STATE OF *New Jersey*  
COUNTY OF *Hudson* S.S.:

On this <sup>3</sup> day of February, 1994, before me personally appear Joseph R. Brancalone known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.



CANDICE M. LANE  
Notary Public, State of New Jersey  
No. 2062789  
Qualified in Bergen County  
Commission Expires July 6, 1994

NASD Date of Decision: February 10, 1994

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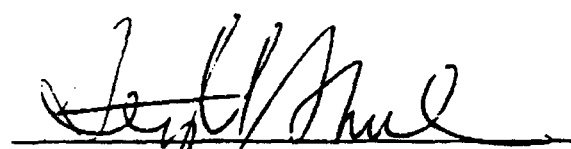
Concurring Arbitrator's Signature  
Name

  
Carolyn E. Wade, Esq.

STATE OF NEW YORK  
COUNTY OF NEW YORK

s.s.:

On this 7<sup>th</sup> day of February, 1994, before me personally appear Carolyn E. Wade known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that she executed the same.

  
Stephen C. Shulman  
Reg. #02545019212 Queens Cty  
Expires 10/18/95

NASD Date of Decision: February 10, 1994

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Concurring Arbitrator's Signature  
Name

Robert D. Herschmann

Robert D. Herschmann, Esq.

STATE OF *FLORIDA*  
COUNTY OF *DADE*

S.S.:

On this *4<sup>th</sup>* day of February, 1994, before me personally appear Robert D. Herschmann known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.

*James P. Meyer*  
OFFICIAL NOTARIAL  
NOTARY PUBLIC, STATE OF FLORIDA  
COMMISSION # 11107199  
MY COMMISSION EXPIRES 12.15.1997

NASD Date of Decision: February 10, 1994