

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Jack D. Zeff

93-00936

Name of Respondents

Biltmore Securities, Inc.
Alex Barletta
David J. Woodruff

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on March 11, 1993, Claimant Jack D. Zeff, who appeared Pro Se, alleged that on August 14, 1992 he executed a new account form indicating that his investment objective was growth, and that on that date, upon the recommendation of his broker and advisor, Respondent Alex Barletta, he purchased 200 shares of Heinz stock. The Claimant further alleged that two weeks later, again upon the recommendation of Respondent Alex Barletta, he sold the Heinz stock and purchased 1,100 shares of Health Care Imaging Services and that one month later, once again with Respondent Alex Barletta's advice, he sold those shares at a loss to purchase Judicate stock. The Claimant contended that although he resisted the Judicate purchase, he eventually purchased 10,000 shares upon Respondent Alex Barletta's recommendation, and this stock was eventually sold at a loss, which is the basis of his complaint. Claimant Jack D. Zeff further contended that Respondent Biltmore Securities, Inc., through its representatives, Respondents David J. Woodruff and Alex Barletta, used high pressure tactics to convince him to purchase Judicate stock, which they assured him was going to quickly increase in value. The Claimant further contended that the stock declined in value, and that he should be compensated for losses he has incurred due to the wrongdoing of the Respondents.

Respondent David Woodruff, who appeared Pro Se, maintained that he was designated as the compliance officer at Biltmore, and that he is not responsible for any of the losses incurred by the Claimant. The Respondent contended that he should not be held liable in this matter.

Respondents Biltmore Securities, Inc. and Alex Barletta, in a Joint Statement of Answer, by and through their counsel, Hartley T. Bernstein, Esq. of Brandeis, Bernstein & Wasserman, New York, NY, maintained that from the inception of his account, the Claimant authorized and directed each and every transaction, and that he at no time complained that the trades were unauthorized or inappropriate. The Respondents further maintained that they acted consistently with their responsibilities to this customer, by explaining the recommended investments and discussing risks. Respondents Biltmore Securities, Inc. and Alex Barletta contended that there is no basis upon which the Claimant can assert or establish that these investments were either unsuitable or unauthorized, and that therefore, they should not be held liable in this matter.

RELIEF REQUESTED

Claimant Jack D. Zeff requested \$5,276.00 in actual damages.

Respondent David J. Woodruff requested that the claims of the Claimants be dismissed.

Respondents Biltmore Securities, Inc. and Alex Barletta requested that the claims of the Claimant be dismissed.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, William R. Newsome, 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 1, 1993, by Respondent Biltmore Securities, Inc. on May 21, 1993, by Respondent Alex Barletta on May 25, 1993, and by Respondent David J. Woodruff on May 10, 1993.

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. The claims of the Claimant Jack D. Zeff against Respondent David J. Woodruff are dismissed in their entirety.
2. Respondents Biltmore Securities, Inc. and Alex Barletta are jointly and severally liable and shall pay to Claimant Jack D. Zeff \$5,628.00, inclusive of interest.
3. The parties shall bear their respective costs.

4. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc.

AFFIRMATION

I, WILLIAM R. NEWSOME, 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.



William R. Newsome

DATE OF DECISION: October 21, 1993