

NATIONAL ASSOCIATION OF SECURITIES DEALERS

Name of Claimants

93-01196

Name of Respondents

Alex. Brown & Sons, Incorporated
Stephen Gritzan

REPRESENTATION

For Claimants Jack and May Leiner ("Claimants") were represented: Charles Bagley, IV, Esq. of the law firm of Council, Baradel, Kosmerl & Nolan, P.A.

For Respondents Alex, Brown & Sons, Inc. ("Alex. Brown") was represented: Robert E. Patterson, Assistant General Counsel for Alex. Brown & Sons, Inc.

Respondent Stephen Gritzan ("Gritzan") represented himself.

CASE INFORMATION

Statement of Claim filed: March 26, 1993

Claimants' Submission Agreement signed on: March 23, 1993

Statement of Answer filed by Respondent Alex. Brown on: May 19, 1993

Alex. Brown's Submission Agreement signed on: May 17, 1993

No Answer or Submission Agreement was filed by Gritzan.

HEARING INFORMATION

Hearing Dates/Sessions:

October 6, 1993	- one session
March 28, 1994	- two sessions
March 29, 1994	- two sessions

May 3, 1994 - two sessions
May 4, 1994 - one session

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

CASE SUMMARY

Claimants alleged, among other things, that Gritzan recommended speculative and unsuitable securities although their stated investment objective was conservative investing with growth. Claimants alleged that many trades were made without their authorization including those trades made in Metallurgical Industries, Inc., U.S. Bioscience and Callaway Golf Co. Claimants alleged that Gritzan made material false misrepresentations. Claimants alleged that Gritzan silenced Claimants complaints by making false promises, agreements and guarantees. Claimants alleged that Respondents violated the State and Federal Securities Laws and that Respondents violated the rules of the Self Regulatory Organizations. Claimants' alleged that Respondents negligently handled their account, that Respondents committed common law fraud and breached their fiduciary duties that they owed to Claimants. Claimants further alleged that Alex. Brown failed to properly supervise Gritzan or Claimants' account.

Respondent Alex. Brown denied any and all liability for the losses incurred by Claimants. Alex. Brown maintained that all trades executed by Gritzan were authorized, and if they were not, Claimants ratified the trades by failing to complain when they had ample opportunity to do so. Alex. Brown maintained that June 8, 1992, Gritzan voluntarily resigned from Alex. Brown. Alex. Brown maintained that, although Claimants were aware of Gritzan's departure, they kept their account with Alex. Brown and still made no complaints regarding the alleged egregious misconduct. Alex. Brown maintained that the Claimants remained in control of their account at all times, approved of all trades in their account and that all investments were suitable for Claimants. Alex. Brown maintained that Claimants were active and willing participants in a scheme where the Claimants demanded and received secret payments from Gritzan for the losses incurred. Alex. Brown maintained that by continuing to hold the disputed stock positions for lengthy periods without making an effort to sell those positions, the Claimants failed to mitigate their losses. Respondents maintained that by concealing from Alex. Brown their secret arrangement with Gritzan, the Claimants' denied Alex. Brown the opportunity to address their complaints at a time when little or no injury had occurred.

Respondent Gritzan did not file and answer, however, he did appear at the hearing.

RELIEF REQUESTED

Claimants, at the hearing, requested compensatory damages in the amount of \$125,523, punitive damages in the amount of \$250,000, pre-judgment interest and costs.

Respondent Alex Brown requested that Claimants' claim be dismissed in its entirety and that Alex. Brown be awarded its costs and attorney's fees.

Although Gritzan did not file an answer, at the hearing he requested that Claimants' claim be dismissed.

OTHER ISSUES CONSIDERED & DECIDED

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

During the hearing, Alex. Brown made a Motion to Dismiss which the Panel denied in its entirety.

Claimants Motion to Bar Gritzan and/or Preclude Gritzan were denied. Claimants Motion to Compel Alex. Brown to Produce Documents was denied.

The Respondents joint motion to disqualify Claimants' original counsel was argued in front of the Panel on October 6, 1993. The Panel did not rule on this Motion, however, Claimants' original counsel voluntarily withdrew.

Pursuant to Section 12(a) of the Code of Arbitration Procedures and the By-laws of the NASD, Inc. the Panel exercised its jurisdiction over Gritzan, notwithstanding his failure to execute a submission agreement. Therefore, Respondent Gritzan is bound by all rulings and determinations of this Panel.

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. That Claimants' claim is denied in its entirety.

2. That Claimants' claim for punitive damages is denied in its entirety.
3. That all other claims asserted by the parties not specifically addressed herein are denied.
4. That the parties shall bear their respective costs and attorneys' fees, except as specifically stated herein.

FORUM FEES

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

8 sessions X \$750 = \$6,000

Forum Fees Assessed Against: Claimants are assessed forum fees in the amount of \$3,000, however, Claimants may offset this amount with their hearing session deposit of \$750 previously filed so that the amount due from Claimants is \$2,250. Respondents Alex. Brown and Gritzan are jointly and severally assessed forum fees in the amount of \$3,000.

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

Concurring Arbitrator's Signature
Name

Public/Industry


Alexander I. Heckman

NASD Date of Decision: May 19, 1994

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Concurring Arbitrator's Signature
Name

Virginia S. Carson
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Public/Industry

Public

NASD Date of Decision: May 19, 1994

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Concurring Arbitrator's Signature
Name


Paul A. Yates

Public/Industry



NASD Date of Decision: May 19, 1994