

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Monte S. Meltzer

93-01562

Name of Respondents

Cantella & Company, Inc.
James W. Bullard, Jr.
Portfolio Asset Management, Inc.

REPRESENTATION

For Claimant Monte S. Meltzer ("Claimant"): pro se

For Respondent Cantella & Company, Inc. ("Cantella"): Arthur P. Fisch, Esq.,
of the law firm of Fisch & Kaufman, New York, New York.

For Respondent James W. Bullard, Jr. ("Bullard"): Arthur P. Fisch, Esq., of the
law firm of Fisch & Kaufman, New York, New York.

For Respondent Portfolio Asset Management, Inc. ("Portfolio"): did not appear

CASE INFORMATION

Statement of Claim filed: April 29, 1993.

Claimant's Submission Agreement executed on: April 15, 1993.

Statement of Answer filed by Cantella: September 17, 1993.
Cantella's Submission Agreement signed on: July 1, 1993.

Statement of Answer filed by Bullard: January 24, 1994.

Portfolio Asset Management did not file an Answer.

HEARING INFORMATION

Hearing Date/Sessions: April 26, 1994 - one session
August 2, 1994 - one session
Hearing Location: NASD District Offices, Washington, D.C.

CASE SUMMARY

Claimant alleged among other things, that he purchased 15,000 shares of N-VIRO Recovery Inc. ("NVRO"). Claimant alleged that he and Bullard had a clear understanding and agreement that the sale of Claimant's 10,000 shares of Integrated Resources Technology, Inc. ("IRTI") would cover most of the purchase and that Claimant would pay the difference. Claimant alleged that this was the normal manner in which previous transactions had been made. Claimant alleged that Bullard failed to execute a telephone order to sell all shares of IRTI in Claimant's account. Claimant alleged that repeated attempts to contact Bullard to confirm these transactions were unsuccessful. Claimant alleged that all his shares of NVRO were subsequently sold without Claimant's authorization or knowledge and further that by the time the IRTI shares were sold, their value had dropped significantly. Claimant alleged that Bullard stated that he had made a mistake in not selling the IRTI when he should have, but that he could not correct the sale of NVRO. Claimant alleged that he and Bullard attempted to negotiate a settlement but reached no agreement and Claimant closed his account.

Bullard and Cantella (collectively referred to as "Respondents") categorically denied all allegations of wrongdoing.

Bullard maintained that Claimant's Statement of Claim failed to set forth a claim upon which relief could be granted. Bullard maintained that any settlement discussions with Claimant are barred from testimony. Bullard denied that the sale of NVRO was an unauthorized transaction. Bullard maintained that Claimant was responsible for payment for the NVRO trades and failed to pay for them and thus, the sale was a liquidation for failure to pay for the transaction. Bullard maintained that Claimant never gave a sell order for the IRTI shares, but instead decided to hold them and that the IRTI shares were finally sold when the Respondents had to sellout Claimant's account to cover the NVRO trade.

Cantella maintained that it was the clearing broker for this transaction. Cantella maintained that based upon the indemnification contained in the clearing agreement, Bullard's confirmation of that indemnification, and the fact that Cantella had no relationship with Claimant, the claim against Cantella should be

dismissed. Cantella maintained that any award should be the responsibility of Bullard and Portfolio, pursuant to the clearing agreement.

RELIEF REQUESTED

Claimant requested damages in the amount of \$43,116 based on the difference between Claimant's purchase price for NVRO and the sale price and Claimant's purchase price for IRTI and the sales price that he would have realized had the IRTI shares been sold at an earlier point in time to pay for the NVRO shares.

Respondents requested that Claimant's claim be dismissed in its entirety and that legal costs and attorneys' fees be awarded to Respondents.

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 original remains on file with the NASD.

The claim against Portfolio Asset Management is stayed pursuant to the August 17, 1993 order of the United States District Court for the Western District of Texas placing Portfolio in liquidation under the Securities Investor Protection Act, and section 362(a) of the Bankruptcy code, 11 U.S.C. section 362(a).

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 Respondent Bullard is liable and shall pay to the Claimant the sum of \$25,387.50; exclusive of interest.
2. That the parties shall bear their respective costs and attorneys' fees except as specifically stated herein.

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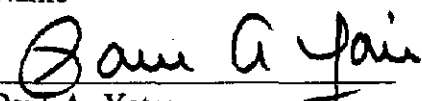
FORUM FEES

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

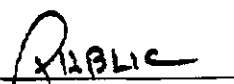
2 hearing sessions x \$400 = \$800 minus Claimant's hearing session deposit of \$400 = \$400 net due

Forum Fees Assessed Against: Respondent Bullard
Respondent Bullard shall bear the \$400 in forum fees remaining due. Fees are payable to the National Association of Securities Dealers, Inc.

Concurring Arbitrator's Signature
Name


Paul A. Yates

Public/Industry


Public

NASD Date of Decision: August 31, 1994

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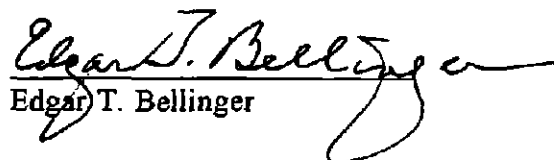
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Forum Fees Assessed Against: Respondent Bullard
Respondent Bullard shall bear the \$400 in forum fees remaining due. Fees are payable to the National Association of Securities Dealers, Inc.

Concurring Arbitrator's Signature

Name

Public/Industry


Edgar T. Bellinger

Public

NASD Date of Decision: August 31, 1994

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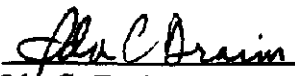
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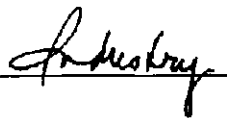
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Concurring Arbitrator's Signature
Name


Ida C. Draim

Public/Industry



NASD Date of Decision: August 31, 1994