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9501033

NASD AWARD

Claimants

Laurette Wood

Respondents

* Alex Brown & Son, Inc. and
Robert David Perrin

Case Number
93-03339

REPRESENTATION

Claimant, Laurette Wood ("Wood") was represented by Jane Sirak, Esq. of the law office of Jane Sirak, Esq., West Palm Beach, Florida.

Respondent, Alex, Brown & Sons, Inc. ("Alex Brown") was represented by Daniel J. Donovan, Esq. of Alex Brown, Baltimore, Maryland.

Respondent, Robert Perrin ("Perrin") was represented by Peter Aldrich, Esq. of Broome, Kelley & Aldrich, P.A., West Palm Beach, Florida.

CASE INFORMATION

Statement of Claim filed: August 23, 1993. Claimant's Submission Agreement signed: April 2, 1993.

Respondent, Alex Brown's Statement of Answer filed: December 14, 1993.
Respondent's Submission Agreement signed December 2, 1993 by Robert F. Price on behalf of Alex Brown.

Respondent, Perrin's Statement of Answer filed on: December 7, 1993.
Perrin's Submission Agreement signed on: November 24, 1993.

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HEARING INFORMATION

On November 8, 1994, in Ft. Lauderdale, Florida, a hearing lasting two sessions was conducted.

CASE SUMMARY

Claimant alleged that Respondents were liable for: Federal and state securities violation; common law fraud; and, breach of fiduciary duty. Claimant alleged that Perrin undertook an extremely aggressive and very speculative trading strategy with total disregard for the safety of the principal in the account and in total disregard of the stated objective of conservative investment, for the sole purpose of generating commissions. Claimant further alleged that Perrin made material misstatements and misrepresentations concerning the absence of risk and the suitability of the investments he was making.

Respondent, Alex Brown denied all allegations of wrongdoing and alleged that: Claimant wanted to increase the return on her investments by adopting a more aggressive trading strategy with some portion of her invested funds; Perrin reasonably believed that the purchase of U.S. Bioscience shares were consistent with Wood's investment objectives; Claimant specifically acknowledged to Alex Brown's branch office manager that she had authorized the purchase of U.S. Bioscience; Claimant had substantial knowledge and experience in investment matters; the trading was done with Wood's knowledge and consent

Alex Brown asserted the affirmative defenses of: Failure to state a claim; statute of limitations; authorization; ratification; failure to mitigate damages; waiver; estoppel; and the claims are barred by Section 8-319 of the Uniform Commercial Code.

Claimant's Motion to Strike Perrin's Statement of Answer was granted by this panel of arbitrators (see "Other Issues").

RELIEF REQUESTED

Claimant requested damages in the amount of at least \$13,000.00 plus punitive damages of at least \$37,000.00, plus costs, interest and attorney's fees.

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Respondent, Alex Brown requested dismissal of the claim plus costs and attorney's fees.

OTHER ISSUES CONSIDERED AND DECIDED

- (1) Claimant dismissed Respondent Perrin from this proceeding.
- (2) Pursuant to Claimant's ore tenus Motion to Strike Respondent, Perrin's Statement of Answer which was made at the time of the hearing and subsequent to Claimant having dismissed Perrin from this proceeding, this panel has granted said motion and has not considered Perrin's Answer in rendering this Award.

AWARD

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

- (1) Respondent, Alex Brown is found not liable and, therefore, all claims against it are hereby dismissed.
- (2) Claimant's request for attorney's fees, costs, and punitive damages is denied.
- (3) Respondent's request for attorney's fees and costs is denied.

OTHER COSTS

- (1) The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including attorney's fees.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the panel has assessed forum fees in the amount of \$1,000.00 (2 sessions x \$500.00 per session).

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- (1) Claimant is assessed \$500.00 for which the NASD shall retain the \$500.00 previously deposited in full satisfaction thereof.
- (2) Respondent, Alex Brown is hereby assessed \$500.00 payable to the National Association of Securities Dealers, Inc.
- (3) The NASD shall retain the non-refundable filing fee of \$150.00 paid by the Claimant.

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

Concurring Arbitrator(s) Signature(s)

Public/Industry

/s/
George Richards, Esq.

Public/Chairperson

/s/
Andrew Bartfay

Public

/s/
Camille Besold

Industry

Date of Decision: January 31, 1995