

**N.A.S.D. AWARD**

**NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.**

In the matter of the Arbitration Between

**Name of Claimant(s)**

Eleazar Magdalleno

NASD Arbitration

No. 93-03399

**Name of Respondent(s)**

Bruce Alan Biddick  
John Kenney Berscht  
Lyn Flanagan

**REPRESENTATION**

For Claimant: Eleazar Magdalleno, Union City, California

For Respondent Bruce Alan Biddick: Antoine M. Devine, Esq., Dennis & Coscia, San Diego, California

For Respondent John Kenney Berscht: John Kenney Berscht, Scottsdale, Arizona

For Respondent Lyn Flanagan: Lyn Flanagan, Carlsbad, California

**CASE INFORMATION**

Statement of Claim filed: August 6, 1993

Claimant's Submission Agreement signed: February 2, 1994

Statement of Answer filed by Respondent Bruce Alan Biddick: November 22, 1993

Statement of Answer filed by Respondent John Kenney Berscht: November 19, 1993

Statement of Answer filed by Respondent Lyn Flanagan: February 8, 1994

Respondents' Submission Agreements signed as follows:

Bruce Alan Biddick: November 23, 1993  
John Kenney Berscht: November 19, 1993  
Lyn Flanagan: February 10, 1994

### HEARING INFORMATION

Pre-Hearing Conference Date(s)/Session(s): None  
Hearing Date(s)/Session(s): June 8, 1994 (one session)  
Hearing Location: San Francisco, California

### CASE SUMMARY

Claimant alleged unprofessional behavior by Respondents and alleged misrepresentations regarding the risks associated with his investments in NRD Resources Ltd. stock.

In separately filed Statements of Answer, Respondents denied any liability to Claimant and alleged that Claimant agreed to an oral compromise with Respondents and received monies representing a settlement of the dispute among the parties with respect to Claimant's NRD Resources Ltd. investment.

### RELIEF REQUESTED

Claimant requested damages in the amount of approximately \$5,500.00.

Respondent Bruce Alan Biddick requested:

1. Dismissal of Claimant's claims;
2. Costs and attorney's fees; and
4. Such other and further relief as the arbitrator deems appropriate.

Respondent John Kenney Berscht requested:

1. Dismissal of Claimant's claims;
2. Costs; and
3. Such other and further relief as the arbitrator deems appropriate.

### OTHER ISSUES

Respondent Bruce Alan Biddick's motion for summary judgment, judgment on the pleadings, and motion to dismiss are denied.

### 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. Respondents are jointly and severally liable for and shall pay to the Claimant the sum of \$4,500.00.

2. The parties shall each bear their respective costs including attorney's fees.

**FORUM FEES**

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following forum fees are assessed: The NASD shall refund the \$200.00 hearing session deposit previously deposited by the Claimant. Forum fees are assessed against: Respondents, jointly and severally, in the amount of \$200.00, calculated as follows: One hearing session times \$200.00/session.

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

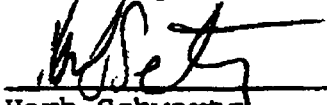
**PRESIDING ARBITRATOR**

Name \_\_\_\_\_ Public / Industry

Herb Schwartz, Esq.

Public Arbitrator

Presiding Arbitrator's Signature

  
\_\_\_\_\_  
Herb Schwartz

Date of Decision: June 30, 1994

Date Served: 07/11/94