

NASD AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Name of Claimant

Albert Parnes, AL-PAR, Inc. and
ATC Company

and

93-05173

Name of Respondent

Stratton Oakmont, Inc.
Biltmore Securities, Inc.
Kevin Loomis
Bud Clarke

REPRESENTATION OF PARTIES

Albert Parnes, AL-PAR, Inc. and ATC Company (collectively as "**Claimants**") were represented by John A. Dienner, Esq., Chicago, Illinois.

Stratton Oakmont, Inc. ("**Respondent Stratton**") was represented by Jerry M. Santangelo, Esq., Neal Gerber & Eisenberg, Chicago, Illinois.

Biltmore Securities, Inc. ("**Respondent Biltmore**") was represented by William Nortman, Esq., Nortman & Bloom, P.A., Miami, Florida.

Kevin Loomis ("**Respondent Loomis**") and Bud Clarke ("**Respondent Clarke**") were represented by Jacob H. Zamansky, Esq., Singer Bienenstock Zamansky Ogele & Sele, New York, New York.

CASE INFORMATION

The Statement of Claim was filed on or about December 17, 1993. Amended Statement of Claim was dated April 5, 1994. Submission Agreement of Claimants Albert Parnes, AL-PAR, Inc. and ATC Company were signed on November 30, 1993 by Albert Parnes, individually, and on behalf of AL-Par, Inc. and ATC Company.

Answer to Amended Statement of Claim was filed by Respondents Stratton Oakmont, Inc., Kevin Loomis and Bud Clarke on or about May 20, 1994. Submission Agreement of Respondent Stratton

Oakmont, Inc. was signed on March 25, 1994 by Paul Byrne. Submission Agreement of Respondent Kevin Loomis was signed on May 17, 1994. Submission Agreement of Respondent Bud Clarke was signed on March 29, 1994.

Answer to Amended Statement of Claim was filed by Respondent Biltmore Securities, Inc. on or about June 23, 1994. .

HEARING INFORMATION

The hearing was held on July 25, 1995 for two (2) sessions, July 26, 1995 for two (2) sessions , July 27, 1995 for two (2) sessions and July 28, 1995 for three (3) sessions in Chicago, Illinois for a total of nine (9) sessions.

CASE SUMMARY

Claimant alleged that Respondents engaged in schemes to defraud which included misrepresenting the likelihood of short-term profits in well known "blue-chip" stocks in order to induce the Claimants to establish a relationship with the company and steering the Claimants away from "blue-chip" companies and into "house" stocks which were minimally capitalized, little-known companies. Claimants further alleged that the schemes included the use of scripts which were designed to and did create the impression of urgency and the virtual certainty of immediate, short-term gain because of particular circumstances. It was also alleged by Claimant that he opened accounts with Respondent Loomis of Stratton Oakmont and moved his account to Biltmore based upon assurances that Loomis could guarantee profits. Claimant stated that after suffering losses he visited the office of Respondent Stratton where he met with Richard Bronson, Elliot Loewenstern, Robert Allen Denton, Kenneth Thomas Tripoli, Alexander Fitzgerald Barletta, Lee Michael Rough and Marc Siden. It was alleged that at the meeting, the accounts of Claimant were assigned to Respondent Bud Clarke. Claimant alleged that Clarke continued to solicit the Claimant and continued to guarantee profits.

Respondents Stratton, Loomis and Clarke denied the allegations set forth in the Statement of Claim. Respondents specifically stated Claimant was a sophisticated investor with highly speculative objectives who fully understood the risks associated with trading stocks and knowingly authorized the trades.

Respondent Biltmore also denied the allegations set forth in the Statement of Claim. Respondent Biltmore specifically stated that exclusive of claims asserted against Bud Clarke, Claimant makes no substantive allegation against it other than that it utilizes cold callers and account openers.

RELIEF REQUESTED

Claimant requested an award in their favor and against the respondents jointly and severally, in an amount sufficient to compensate them for their trading losses, together with pre-judgment interest thereon, treble damages (against all Respondents except Bear Stearns), punitive damages (against all Respondents except Bear Stearns), attorneys' fees, costs and such other relief as may be just and appropriate under the circumstances or, in the alternative, that the arbitrators enter an order rescinding the transactions and awarding Claimants pre-judgment interest, attorneys' fees, costs and such other relief as may be just and appropriate under the circumstances.

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded their costs and attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDED

Respondent Bear Stearns Securities Corp. was dismissed with prejudice by the undersigned arbitrators at the conclusion of the hearing.

The claims asserted against Respondents Richard Bronson, Elliot Loewenstern, Robert Allen Denton, Kenneth Thomas Tripoli, Alexander Fitzgerald Barletta, Lee Michael Rough and Marc Siden were dismissed with prejudice by stipulation of the parties at the conclusion of the Claimants' case in chief.

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(s) remain on file with the NASD.

AWARD

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

1. Counts II, III, IV, V(RICO), VI and VII of the Statement of Claim shall be and hereby are dismissed.
2. The counterclaim of Biltmore Securities, Inc. shall be and hereby is dismissed
3. Respondents Stratton Oakmont, Inc., Kevin Loomis and Bud Clarke shall be and hereby are jointly and severally liable for and shall pay to the Claimants Albert Parnes, Al-Par, Inc. and ATC Company the sum of **Two hundred eighteen thousand five hundred eighty four dollars (\$218,584)**.

4. Respondents Biltmore Securities, Inc. and Bud Clarke shall be and hereby are jointly and severally liable for and shall pay to the Claimants Albert Parnes, Al-Par, Inc. and ATC Company the sum of **Ninety six thousand nine hundred seventy five dollars (\$96,975)**.
5. No interest is awarded on the above stated sums.
6. No punitive damages are awarded herein.
7. Each party shall bear its' own costs, expenses and attorneys' fees incurred in this matter not specifically enumerated herein.

FORUM FEES

Forum fees are calculated at the rate of \$750 per hearing session and \$300 for each prehearing conference, if any. There were nine (9) sessions x \$750 = \$6,750 in forum fees. Pursuant to §43(b) a hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less.

Pursuant to §43(c) of the NASD Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. ("NASD") shall **retain** the non-refundable filing fee in the amount of \$200 and shall **retain** as forum fees the hearing session deposit in the amount of \$750 previously deposited with the NASD by the Claimant Albert Parnes. Respondent Stratton Oakmont, Inc. shall be and hereby is liable for and shall pay to the NASD the sum of \$3,000 and Respondent Biltmore Securities, Inc. shall be and hereby is liable for and shall pay to the NASD the sum of \$3,000 as the balance due for forum fees.

The NASD shall retain postponement fees in the amount of \$750 previously deposited with the NASD by Respondent Stratton Oakmont, Inc. **Fees are payable to the National Association of Securities Dealers, Inc.**

/s/ Bradford S. Allen, Esq.

Bradford S. Allen, Esq.
Public Arbitrator, Presiding Chair

Dated:

October 17, 1995

/s/ Martin J. Dubowsky, Esq.

Martin J. Dubowsky, Esq.
Public Arbitrator

October 17, 1995

/s/ Marc B. Horin

Marc B. Horin
Industry Arbitrator

October 17, 1995