

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Ronald R. and Mavis M. Scott

94-00278

Name of Respondents

Kennedy, Cabot & Company
Gruntal & Co., Inc.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on January 24, 1994, Claimants Ronald R. and Mavis M. Scott, who appeared Pro Se, alleged that they purchased 3000 shares of Pantheon Industries stock at \$5.25 per share through Respondents Kennedy, Cabot & Co. and Gruntal & Co., Inc. Claimants further alleged that when they were unable to come up with the money to pay for this transaction, they received a letter from Respondent Gruntal & Co., Inc. which stated that the Pantheon Industries stock would be sold from their account at 1 PM New York time on August 18, 1993 or as soon as practicable. Claimants contended Respondents failed to execute this sale at the time they said they would without any practicable reason for the delay, forcing them to sell at a much lower price and a considerable loss of money. As a result of the above, Claimants alleged that they have suffered damages for which the Respondents should be held liable.

Respondents Kennedy Cabot & Co. and Gruntal & Co., Inc., through Kennedy, Cabot & Co.'s in-house counsel George H. Kupper, Esq., Beverly Hills, California, maintained that under Federal Regulation T they are required to sell a position out when the customer cannot or will not pay on settlement day. Respondents further maintained that a customer agreement signed by Claimants indicated the procedures followed by Respondents regarding the sell-out in question. Respondents contended that they acted correctly and according to the terms of their contractual agreements with the Claimants in the handling of the Regulation T sell-out in their joint account. As a result of the above,

Respondents maintained they should not be held liable in this matter.

RELIEF REQUESTED

Claimants Ronald R. and Mavis M. Scott requested (1) \$1,595.07 in actual damages, (2) any interest charged by Respondents, and (3) 1,574 shares of Pantheon Industries common stock or \$7,279.75.

Respondents Kennedy Cabot & Co. and Gruntal & Co., Inc. requested that the Claimant's Statement of Claim be dismissed in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

Claimants Ronald R. and Mavis M. Scott's request to preclude Respondents' Answer was considered by the arbitrator and was denied.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single public arbitrator, John E. Ohashi, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on April 7, 1994, by Respondent Kennedy, Cabot & Co. on February 22, 1994, and by Respondent Gruntal & Co., Inc. on March 9, 1994.

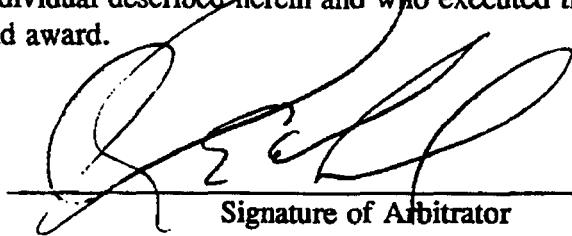
And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The claims of Claimants Ronald R. and Mavis M. Scott against Respondents Kennedy, Cabot & Co. and Gruntal & Co., Inc. are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants shall be retained by the NASD, Inc.

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AFFIRMATION

I, **JOHN E. OHASHI, ESQ.**, do hereby affirm upon my oath of arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.



Signature of Arbitrator

DATE OF DECISION: October 31, 1994