

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Robert A. Ruggiero

94-00286

Name of Respondents

A.R. Baron & Co., Inc.
Andrew Bressman

REPRESENTATION

For Claimant Robert A. Ruggiero ("Claimant"): James J. Greenfield, Esq. of the law firm of Barrick, Rodos & Bacine, Philadelphia, Pennsylvania

For Respondents A.R. Baron & Co., Inc. ("Baron") and Andrew Bressman ("Bressman"): David S. Smith, Esq. of the law firm of Smith Campbell & Paduano, New York, New York

CASE INFORMATION

Statement of Claim filed: January 24, 1994
Claimant's Submission Agreement signed on: December 13, 1993

Joint Statement of Answer filed by Respondents Baron and Bressman (collectively referred to as "Respondents") on: May 17, 1994
Baron's Submission Agreement signed on: May 9, 1994
Bressman's Submission Agreement signed on: May 9, 1994

HEARING INFORMATION

Pre-Hearing Conference: May 12, 1995 - one session

Hearing Dates/Sessions: September 14, 1995 - two sessions
September 15, 1995 - three sessions

Hearing Location: NASD, Inc. District Office
Philadelphia, Pennsylvania

CASE SUMMARY

Claimant alleged, among other things, that he suffered losses due to Respondents unauthorized trading in his account and due to Respondents refusal to sell securities as directed by Claimant during the period of May 1, 1993 through July 1, 1993. Claimant alleged that Bressman made unauthorized purchases of Health Professionals, Inc. ("HPI") and Cryomedical Science, Inc. ("CSI") in his account. Claimant alleged that when he complained to Bressman about the unauthorized transactions in HPI, Bressman represented to Claimant that he (Bressman) would limit the risks to Claimant by placing an automatic sell order on HPI if it fell below \$8.50. Claimant alleged that he made repeated attempts to direct Respondents to sell all of his HPI at \$12 or \$12.50 per share. Claimant alleged that Respondents failed to comply with his instructions to sell HPI. Claimant alleged that not only did Respondents fail to execute his sell order of HPI at \$12 or \$12.50 a share, but that Bressman failed to sell Claimant's HPI stock when it fell to \$8.50 a share. Claimant alleged that Bressman made three unauthorized purchases of CSI in his account. Claimant alleged that he ordered Respondents to sell his CSI shares but they failed to follow his orders.

Respondents categorically denied all allegations of wrongdoing asserted by Claimant. Respondents maintained, among other things, that Bressman followed all instructions that Claimant provided to him. Respondents maintained that all transactions in Claimant's account were authorized. Respondents maintained that Claimant exercised control over his account at all times. Respondents maintained that they timely executed Claimant's orders to sell HPI and CSI.

RELIEF REQUESTED

Claimant requested, in his pleading, damages in the amount of \$618,750.00, together with costs and attorneys' fees.

Respondents requested, in their pleading, that Claimant's claim be dismissed in its entirety; that Claimant be directed to reimburse to Respondents their reasonable expenses, including attorneys' fees and costs of defending this claim; and, that Claimant be directed to pay all NASD forum fees and other fees and charges respecting this arbitration.

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 originals remain on file with the NASD.

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 Claimant's claim is denied in its entirety.
2. That the parties shall bear their own costs and attorneys' fees except as specifically provided herein.
3. That any and all claims not specifically addressed are denied in their entirety.

OTHER COSTS

That any and all postponement fees and administrative costs deposited by the parties shall be retained by the National Association of Securities Dealers, Inc. ("NASD").

FORUM FEES

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

Neither party shall be assessed costs for the pre hearing conference that was conducted in this matter.

5 hearing sessions X \$1000 = \$5,000

Forum Fees Assessed Against: Claimant 50% and Respondents 50%

Claimant is assessed forum fees in the amount of \$2,500, however, Claimant is entitled to offset this amount with its hearing session deposit of \$1000 previously filed so that Claimant owes forum fees in the amount of \$1,500. Respondents jointly and severally are assessed forum fees in the amount of \$2,500.

Fees are payable to the NASD.

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Concurring Arbitrators' Signatures

DATE: Name

10-24-95 Joseph F. Keener, Jr.
Joseph F. Keener, Jr., Chairperson
Public Arbitrator

 Julian F. Santos
Julian F. Santos
Public Arbitrator

 Ronald C. Zimmerman
Ronald C. Zimmerman
Industry Arbitrator

Date Award Served by the NASD: October 27, 1995

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Concurring Arbitrators' Signatures

DATE: Name

Joseph F. Keener, Jr., Chairperson
Public Arbitrator

10/26/95

Julian F. Santos
Julian F. Santos
Public Arbitrator

Ronald C. Zimmerman
Industry Arbitrator

Date Award Served by the NASD:

October 27, 1995