

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of Arbitration Between

Name of Claimant

Tom O. Manown

95-01202

Name of Respondent

Josephthal, Lyon & Ross, Inc., and John M. Riedl

REPRESENTATION

For Claimant: Gary D. Stokes of the law firm of Lamberth, Bonapfel, Cifelli, Willson & Stokes, P.A., Atlanta, GA.

For Respondents: Robert E. Murphy, Esq., Deputy General Counsel for Josephthal, Lyon & Ross, Inc., New York, NY.

CASE INFORMATION

Statement of Claim filed: March 8, 1995.

Claimant's Submission Agreement signed on: March 2, 1995.

Joint Statement of Answer filed: May 2, 1995.

Respondent Josephthal, Lyon & Ross, Inc.'s Submission Agreement signed on: May 1, 1995.

Respondent John M. Riedl's Submission Agreement signed on: April 20, 1995.

HEARING INFORMATION

Hearing dates/sessions:	March	13, 1996	(2 Sessions)
	March	14, 1996	(2 Sessions)

The hearings were conducted in Atlanta, GA.

CASE SUMMARY

Claimant alleged he established a margin account with D. Blech & Company, Inc. ("Blech") in 1994. Claimant further alleged that subsequent to Blech's going out of business he received notice from Respondent John M. Riedl ("Riedl"), Vice President of Sales at Respondent Josephthal, Lyon & Ross, Inc. ("Josephthal"), that Josephthal would be servicing his account thereafter.

Claimant alleged that on or about October 26, 1994 he placed an order with Riedl at Josephthal for 1,500 shares of Trico Products Corporation ("Trico"), traded on NASDAQ, at a price of \$65.00 per share, totalling \$97,878.00. Claimant alleged that on November 8, 1994, four days after the settlement date, Respondents sold his position out at \$80.00 per share, totalling \$119,962.00 with commission. Claimant further alleged he did not authorize this sale.

Claimant alleged Respondents did so in contravention of Josephthal's common practice of allowing payment extensions beyond the settlement date. Claimant alleged that not only had he been granted extensions previously by Josephthal, but that Respondents sold his Trico position after he had notified them by telephone he was on his way to their offices to deliver payment for the trade. Claimant further alleged that had Josephthal followed their common practice of granting payment extensions beyond the settlement date, he would have realized a gain of approximately \$22,084.00.

Respondents maintained that on October 26, 1994 Claimant Tom O. Manown ("Manown") entered an unsolicited order to purchase 1,500 shares of Trico at \$65.00 per share, totalling \$97,876.00, due on or before the November 2, 1994 settlement date. Respondents maintained that prior to the settlement date they made extensive but unsuccessful efforts to have Manown deposit the necessary funds to cover the trade. Respondents further maintained that, notwithstanding their October 13, 1994 codification of Manown's account for "no more extensions," they successfully requested Bear Stearns Securities Corp. ("Bear Stearns") permit a settlement date extension from November 2 to November 7, 1994.

Respondents maintained that on November 7, 1994 Manown indicated he could not make payment until November 11. Respondents further maintained that, after Bear Stearns indicated there would be no further extension of the settlement date and Manown reiterated his inability to make payment until November 11, Manown's Trico position was sold out when the market opened on November 8, 1994.

Respondents maintained that on November 7, 1994 Manown's Trico position showed a loss of approximately \$10,000.00. Respondents further maintained they fully expected to sell out the position at a \$10,000.00 loss on November 8; however, a favorable news announcement that morning resulted in an unforeseen \$22,000.00 profit.

On counterclaim, Respondent Josephthal alleged frivolous and malicious prosecution, and

Respondent Riedl alleged defamation. Claimant Manown submitted no Answer in reply to either counterclaim.

RELIEF REQUESTED

Claimant requested damages in the amount of \$22,084.00, representing the gain on the sale of 1,500 shares of Trico Products Corporation stock at \$80.00 per share, plus interest, attorneys' fees and any available punitive damages.

Respondents requested all claims be dismissed. Respondent Josephthal, Lyon & Ross, Inc. further requested \$10,000.00 on its counterclaim against Claimant Tom O. Manown. Respondent John M. Riedl further requested \$100,000.00 on his counterclaim against Claimant Tom O. Manown.

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. All claims against Respondents Josephthal, Lyon & Ross, Inc. and John M. Riedl shall be and hereby are denied.
2. Claimant Tom O. Manown's request for punitive damages shall be and hereby is denied.
3. Respondent Josephthal, Lyon & Ross, Inc.'s counterclaim shall be and hereby is denied.
4. Respondent John M. Riedl's counterclaim shall be and hereby is denied.
5. Each party shall bear their respective costs, including attorneys' fees.

FORUM FEES

Pursuant to Section 43(c) or 44(c) of the Code of Arbitration Procedure, the arbitrators have assessed the following forum fees:

Claim Filing Fees (Claimant \$100.00 and Respondent \$500.00)	= \$	600.00
Hearing Session Fees (4 x \$750.00)	= \$	3,000.00
Total Forum Fees:	= \$	3,600.00

The undersigned arbitrators have determined that Respondent Josephthal, Lyon & Ross, Inc. shall bear the balance of the cost of arbitration.

Respondent Josephthal, Lyon & Ross, Inc. is liable and shall pay to the NASD the sum of \$3,600.00, less Claimant's fees already paid in (\$400.00) and Respondents' fees already paid in (\$1,200.00), leaving \$2,000.00 due.

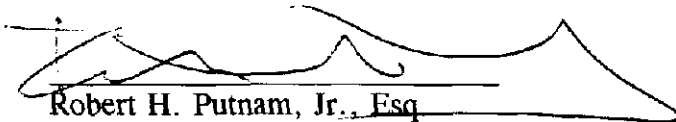
In addition, Respondent Josephthal, Lyon & Ross, Inc. shall pay to the NASD the sum of \$200.00, representing the member surcharge.

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

ARBITRATORS' SIGNATURES



James C. Bussart, Esq.
Public Arbitrator, Chairperson



Robert H. Putnam, Jr., Esq.
Public Arbitrator



P. Parks Duncan
Industry Arbitrator

Date of Decision: April 9, 1996