

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Express Drugs, Inc. and Chaoying Chen

95-01383

Name of Respondent(s)

The Harriman Group, Inc.  
John Bosco

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**REPRESENTATION**

The Claimants, Express Drugs, Inc. ("Express Drugs") and Chaoying Chen ("Chen"), collectively ("Claimants"), appeared Pro Se.

For Respondents, The Harriman Group, Inc. ("Harriman") and John Bosco ("Bosco"), collectively ("Respondents"), Paul Kurland, Esq. of the firm Snow Becker Krauss, P.C., located in New York, N.Y.

**CASE INFORMATION**

Statement of Claim filed: April 18, 1995

Express Drugs Submission Agreement signed on: March 11, 1995

Chen's Submission Agreement signed on: March 11, 1995

Joint Statement of Answer filed by Respondents: June 13, 1995

Respondent Harriman's Submission Agreement signed on: June 12, 1995

Respondent Bosco's Submission Agreement signed on: June 12, 1995

**HEARING INFORMATION**

Hearing Date(s)/Sessions: February 12, 1996 -

2 sessions

Hearing Location: The hearings were held at the offices of the National Association of Securities Dealers located in New York, N.Y.

### CASE SUMMARY

Claimants alleged that they were contacted by Respondent Bosco, a representative of Respondent Harriman, on January 25, 1994 and that Bosco represented that he would not charge the Claimants any commission on transactions which he executed for them and that he made 40% for his clients last year. Claimants further alleged that pursuant to Bosco's representations they purchased 2,000 shares of Telefonica De Argentina SA ("TBOBF") at \$6.98 per share on January 25, 1994. Claimants contended that over the next few weeks, from January 25, 1994 to February 10, 1994, they invested more than \$70,000.00 with Bosco in the following stocks: Chester Holding New ("CHESD"), Touchstone Applied Science Associates, Inc. ("TASA") and Modern Medical Modalities Corp. ("MODM"). Claimants further contended that the value of these stocks subsequently declined and Bosco assured them that they would later appreciate in value. Claimants alleged that on September 21, 1994 Bosco purchased and sold 100 shares of Tivoli Industries for their account without authorization. Claimants contended that during July, 1994 they told Bosco to sell their TASA shares at 4 1/2 but he did not place the order. Claimants further contended that they later discovered that they were charged mark up and mark down fees on all of the transactions which were supposed to be commission free.

Respondents maintained that Claimants represented on their New Account Card that their objectives for the account were "long term growth", "growth with risk", and "speculation, high degree of risk and/or high activity". Respondents further maintained that Claimants voluntarily made the decision to purchase and voluntarily paid for the \$70,000.00 in stock purchased between January 25, 1994 and February 10, 1994. Respondents contended that Claimants made all of the decisions concerning the account and must be held fully responsible for any losses the account may have experienced as a result of these decisions.

### RELIEF REQUESTED

Claimants requested \$53,736.75 in actual damages plus interest and costs.

Respondents requested that the Statement of Claim be dismissed in its entirety and that they be awarded costs and attorney's fees.

### 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 arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

- 1) All claims against Respondents Harriman and Bosco be and hereby are dismissed in their entirety.
- 2) Each party shall bear their respective costs, including attorney's fees.

3) All other claims be and hereby are liable for \$575.00 representing one half of forum fees assessed.

**FORUM FEES**

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

non refundable filing fee:	\$150.00
2 hearing sessions x \$500.00:	\$1000.00
total fees assessed:	\$1150.00

1) Claimants be and hereby are liable for \$575.00 representing one half of forum fees assessed. Claimants previously deposited \$650.00 with the NASD and therefore, are due a refund of \$75.00 from the NASD.

2) Respondents be and hereby are liable for \$575.00 representing one half of forum fees assessed.

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

ARBITRATORS' SIGNATURES

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Thomas E. Siegler  
Industry Arbitrator

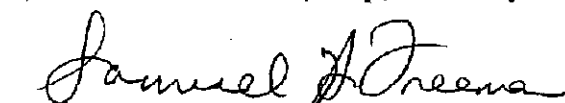
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Michael G. Shannon, Esq.  
Public Arbitrator



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Samuel H. Freeman, Esq.  
Public Arbitrator

NASD Date of Decision: March 27, 1996

I, **Samuel H. Freeman, Esq.**, do hereby affirm that this is my decision in the above-captioned matter.

  
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Samuel H. Freeman

**ARBITRATOR SIGNATURES**

\_\_\_\_\_  
Thomas E. Siegler  
Industry Arbitrator

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Michael G. Shannon, Esq.  
Public Arbitrator

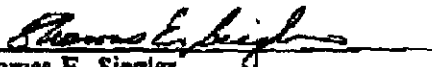
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Samuel H. Freeman, Esq.  
Public Arbitrator

NASD Date of Decision: March 27, 1996

I, Michael G. Shannon, Esq., do hereby affirm that this is my decision in the above-captioned matter.

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Michael G. Shannon, Esq.

ARBITRATORS' SIGNATURES

  
Thomas E. Siegler  
Industry Arbitrator

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Michael G. Shannon, Esq.  
Public Arbitrator

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Samuel H. Freeman, Esq.  
Public Arbitrator

NASD Date of Decision: March 27, 1996

I, **Thomas E. Siegler**, do hereby affirm that this is my decision in the above-captioned matter.

  
Thomas E. Siegler