

ARBITRATION AWARD

NASD REGULATION, INC., OFFICE OF DISPUTE RESOLUTION

In the Matter of the Arbitration Between

Name of Claimants

Shy Glass, Tillie Glass and Jerry Glass

95-03975

Name of Respondents

Beacon Securities, Inc.;
Regional Operations Group, Inc.;
Jeffrey L. Streich;
David A. Scheffler;
Keith Youngswick;
RPR Clearing, a Division of Rauscher Pierce Refnes, Inc.

REPRESENTATION

For Claimants: Shy Glass, Tillie Glass and Jerry Glass ("Glass") were represented by Kenneth David Burrows, Esq. of New York, New York.

For Respondents: Beacon Securities, Inc. ("Beacon") did not appear, but was represented by Leon B. Lipkin, Esq., located in New York, New York. Mr. Lipkin withdrew as counsel prior to hearing. Regional Operations Group, Inc. ("ROG") and RPR Clearing, a division of Rauscher Pierce Refnes, Inc. ("RPR") were represented by Will S. Montgomery, Esq. of Jenkins & Gilchrist, located in Dallas, Texas. Jeffrey L. Streich ("Streich") did not appear. David A. Scheffler was represented by David Gehn, Esq. of the Law Offices of Michael F. Bachner, located in New York, New York. Keith Youngswick ("Youngswick") was originally represented by John Bersin, Esq. of Gusrae, Kaplan & Bruno, located in New York, New York, but appeared pro se at the hearing.

CASE INFORMATION

Statement of Claim filed: August 18, 1995.

Claimants' Submission Agreement signed on: August 16, 1995.

Statement of Answer filed by Respondent Beacon on: October 11, 1995.

Statement of Answer and Motion to Dismiss filed by Respondents RPR Clearing, a division of Rauscher Pierce Refnes, Inc., and Regional Operations Group, Inc. on: October 6, 1995.

Statement of Answer filed by Respondent Youngswick on: October 12, 1995

HEARING INFORMATION

Pre-Hearing Conference: One (1) pre-hearing with staff on March 21, 1996.
Hearing Date/Session: September 27, 1996 for Two (2) sessions.
Hearing Location: Chicago, Illinois.

CASE SUMMARY

Claimants alleged that Respondent Beacon and its employees Streich, Scheffler and Youngswick, engaged in a series of fraudulent acts. In addition, Claimants alleged that Respondents RPR and ROG negligently failed to take any steps to protect them against Beacon's and its employees fraud. Claimants asserted the following claims:

Claim I: In the spring of 1993, Scheffler solicited from Shy Glass a purchase of units in Bancroft Plaza, Inc., representing that Mr. Glass was under no obligation to complete the transaction and that his funds would be refunded if he did not sign and return the offering application. Glass changed his mind and advised Scheffler, who promised the return of the funds, but failed to do so.

Claim II: In the spring of 1994, Streich and Youngswick solicited the purchase of shares in Beacon, representing that it was being offered to the public for the first time. Glass agreed to the purchase and the Glass account was debited the sum of \$5,000.00. Though advised that the shares would be received shortly, no shares were ever transmitted to Glass.

Claim III: In June of 1995, Streich and Beacon prepared a forged margin account application using the Claimants' name with an address for a friend of Streich in order to conceal the unauthorized purchase of securities.

Claim IV: Respondents RPR and ROG negligently failed to take steps to protect Claimants from Beacon's and Streich's illegal behavior in forging the margin account agreement.

Respondent Beacon denied the material allegations of the Statement of Claim, and asserted several affirmative defenses.

Respondent Keith Youngswick denied the material allegations of the Statement of Claim, alleging that it was Streich alone who solicited the Glass' account and sold them Beacon stock. In addition, the Statement of Answer asserted several affirmative defenses.

Respondents RPR and ROG denied having any liability under the Statement of Claim, asserting that the only reason they were sued was because they were a "deep pocket." In addition, RPR and ROG were only the clearing brokers who just cleared trades with for the brokers in direct contact with Glass and are not liable to Claimants under any theory of recovery.

RELIEF REQUESTED

Claimants requested entry of an award against Respondents as follows:

1. Against Beacon and Streich on Claim III in the sum of the greater of 5,500 shares of Amgen plus \$40,577.99, or the sum of \$440,358.75 plus a sum equivalent to the appreciation of Amgen, as well as punitive damages in the sum of \$1,000,000.00 and interest;
2. Against Beacon and Scheffler on Claim I in the sum of \$12,500.00 and interest;
3. Against Beacon, Streich and Youngswick on Claim II in the sum of \$5,000.00 plus interest;
4. Against RPR and ROG on Claim IV for a sum of the greater of 5,500 shares of Amgen plus \$40,577.99, or the sum of \$440,358.75 plus appreciation and interest; and
5. Against all Respondents for costs and reasonable attorneys' fees.

Respondent Beacon requested that the statement of Claim be dismissed in its entirety; that Beacon be awarded its costs and expenses of arbitration, including reasonable attorneys' fees; and that Beacon be granted such other and further relief as is just and proper.

Respondent Youngswick requested that the complaint be dismissed against him; that his records be expunged of this claim; that he be awarded costs and expenses, including reasonable attorneys' fees; and for such other relief as the arbitrators deemed just.

Respondents RPR and RGO requested that the Panel grant the Motion to Dismiss. If the Panel denied the motion, the Respondents requested that Glass take nothing on the claim and that Respondents recover all costs and attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDED

No Respondent filed an executed submission agreement. However, pursuant to Section 10301, the Respondents are required to submit to arbitration.

Respondents Beacon Securities, Inc. and Jeffrey L. Streich did not appear at hearing. Upon review of the correspondence file of the NASD Regulation, Inc., Office of Dispute Resolution and the representations

of the parties, the Panel determined that Respondents Beacon and Streich had received due notice of the hearing and that the Panel would proceed pursuant to Section 10318 of the NASD Code of Arbitration Procedure.

At hearing, the Claimants advised the Panel that settlement had been reached with Respondent David

Scheffler. Pursuant to the Stipulation of the parties, the arbitrators shall enter an award against David Scheffler and in favor of Claimants for the sum of \$4,995.00.

In addition, at hearing the Panel advised the parties that the Motion to Dismiss filed by Respondent RPR and RGO would be denied without prejudice to it being brought at a later time.

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 and post hearing submissions, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent Beacon Securities, Inc. is liable for and shall pay to Claimants Shy Glass, Tillie Glass and Jerry Glass the sum of \$7,405.00 as damages pursuant to Claim I of the Statement of Claim;
2. In addition, Respondents Beacon Securities, Inc. and Jeffrey L. Streich are jointly and severally liable for and shall pay to Claimants Shy Glass, Tillie Glass and Jerry Glass the sum of \$5,000.00 for damages pursuant to Claim II of the Statement of Claim;
3. In regard to Claim III and Claim IV of the Statement of Claim, Respondents Beacon Securities, Inc., Jeffrey L. Streich, Regional Operations Group, Inc. and RPR Clearing are jointly and severally liable for and shall pay to Claimants Shy Glass, Tillie Glass and Jerry Glass the sum of \$404,197.45 as actual damages;
4. Respondent Beacon Securities, Inc. is liable for and shall pay to Claimants Shy Glass, Tillie Glass and Jerry Glass the sum of \$200,000.00 as punitive damages. Furthermore, Respondent Jeffrey L. Streich is liable for and shall pay to Claimants Shy Glass, Tillie Glass and Jerry Glass the sum of \$100,000.00 as punitive damages. In deciding to award punitive damages, the Panel considered the arguments of the parties, as well as the Arbitration memorandum submitted, and determined that authority existed for an award of punitive damages to the Claimants;
5. Pursuant to the stipulation of the parties, Respondent David A. Scheffler is liable for and shall pay to Claimants Shy Glass, Tillie Glass and Jerry Glass the sum of \$4,995.00;
6. The claims alleged against Respondent Keith Youngswick in the Statement of Claim are dismissed with prejudice and denied in their entirety;
7. The parties shall bear their own costs of arbitration, including any attorneys' fees, except for those specifically enumerated herein; and

8. Any relief not specifically awarded is hereby denied.

OTHER COSTS

Respondent Beacon Securities, Inc. is liable for and shall pay to the NASD Regulation, Inc., Office of Dispute Resolution the surcharge in the sum of \$500.00 required pursuant to Section 10333 of the Code of Arbitration Procedure.

Respondents Regional Operations Group, Inc. is liable for and shall pay to the NASD Regulation, Inc., Office of Dispute Resolution the sum of \$500.00 required pursuant to Section 10333 of the Code of Arbitration Procedure.

FORUM FEES

Pursuant to Section 10332 of the Code of Arbitration Procedure, the following Forum Fees are assessed:
Two (2) hearing sessions x \$1,000.00 per session = \$2,000.00.

The NASD Regulation, Inc., Office of Dispute Resolution shall retain the \$250.00 claim filing fee and refund the \$1,550.00 hearing sessions deposit previously paid by the Claimants, Shy Glass, Tillie Glass and Jerry Glass. Respondents Beacon Securities, Inc., Jeffrey Streich, RPR Clearing, a Division of Rauscher Pierce Refnes, Inc., and Regional Operations Group, Inc. are jointly and severally liable for and shall pay to the NASD Regulation, Inc., Office of Dispute Resolution the sum of \$2,000.00 as forum fees. Fees are payable to the NASD Regulation, Inc., Office of Dispute Resolution.

Concurring Arbitrators' Signatures
Name

Date

/s/ Arthur Medow, Esq.
Arthur Medow, Esq.
Public Arbitrator
Chairperson

November 13, 1996

/s/ John T. Kelly, Esq.
John T. Kelly, Esq.
Public Arbitrator

November 27, 1996

/s/ David S. Harris
David S. Harris
Industry Arbitrator

November 25, 1996

For NASD Regulation, Inc. Use Only
Date Served: December 2, 1996

RELIEF REQUESTED

Claimant Roger Goldstein, requested \$1,950.00 in actual damages.

Respondents National Financial Services Corp. and Investex Securities Group, Inc., requested that the claims of the Claimant be dismissed in their entirety.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Michael A. Van Gelder, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Roger Goldstein, on August 11, 1995, and by the Respondent Investex Securities Group, Inc., on September 26, 1995 but not by Respondent National Financial Services Corp. as is required by Sections 12 and 13 of the NASD Code of Arbitration Procedure..

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 the Claimant Roger Goldstein, against Respondent National Financial Services Corp., are dismissed in their entirety.
2. The Respondent Investex Securities Group, Inc., is liable and shall pay to the Claimant Roger Goldstein, \$250.00 in actual damages.
3. The Respondent Investex Securities Group, Inc., is liable and shall pay to the Claimant Roger Goldstein, interest at the rate of 5% per annum from July 27, 1995 to date of payment of the Award.
2. The parties shall bear their respective costs.
3. The \$50.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Roger Goldstein, shall be retained by the NASD, Inc. The Respondent Investex Securities Group, Inc., is liable and shall pay to the Claimant Roger Goldstein, \$25.00 as reimbursement of one-half of the filing fee.

AFFIRMATION

I, **MICHAEL A. VAN GELDER**, do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.



Michael A. Van Gelder

DATE OF DECISION: January 12, 1996