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N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Harry M. Brown

95-04430

Name of Respondents

© National Association of
Securities Dealers, Inc.

Josephthal Lyon & Ross Inc.
* D. Blech & Company, Inc.
Tom Roskin

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REPRESENTATION

For Claimant Harry M. Brown ("Claimant") appeared Mark A. Phillips, Esq., of the law firm of Benesch, Friedlander, Coplan & Aronoff, located in New York, New York.

Prior to the hearing on the merits, Respondent Tom Roskin ("Roskin") represented by Steven Altman, Esq., of the law firm of Ziegler, Ziegler & Altman, located in New York, New York, settled the matter with the Claimant and was, therefore, removed from the case.

For Respondent Josephthal Lyon & Ross, Inc. ("JLR") appeared Robert E. Murphy, Esq., in-house counsel for Josephthal Lyon & Ross, Inc. located in New York, New York.

Respondent D. Blech & Co., Inc. ("DBC") did not enter an appearance at the hearing.

CASE INFORMATION

Statement of Claim filed: September 15, 1995.

Claimant's Submission Agreement signed on: September 12, 1995.

Statement of Answer and cross claim filed by Respondent JLR on: December 18, 1995.

Respondent JLR's Submission Agreement signed on: December 18, 1995.

Statement of Answer filed by Respondent Roskin on: November 16, 1995.

Respondent Roskin's Submission Agreement signed on: November 16, 1995.

9607103

Respondent D. Blech & Company, Inc. did not file a Statement of Answer or a Submission Agreement.

Motion to Bar Answer and Defenses of Respondents DBC and JLR filed by Claimant on: December 6, 1995.

Amended Answer filed by JLR on: January 25, 1996.

HEARING INFORMATION

Hearing Date/Sessions: May 9, 1996. 2 sessions

The hearings were held at the offices of the National Association of Securities Dealers located at 1350 Euclid Ave., Cleveland, Ohio.

CASE SUMMARY

Claimant alleged that Roskin and DBC made unauthorized trades in his account, held with DBC and cleared through Bear Stearns, to his detriment. Claimant further alleged that in May of 1994, Roskin contacted him by way of a cold call and recommended that he purchase shares of Stet Telecom of which he purchased 1500 shares. Claimant also alleged that Roskin continued calling and making recommendations and that he agreed to purchase shares of Cheyenne Software, Ministor Peripherals International, Incyte Pharmaceutical Inc., and finally, in August of 1994, Newvision Technology.

Claimant contended that he did not give Roskin or DBC discretionary trading authority nor did he authorize a margin account however, they continually purchased a greater number shares than he had requested by placing them on margin. Claimant further contended that he was not fully aware of the unauthorized transactions because he was involved in a move around the time of the transactions and was not receiving confirmation slips. Claimant also contended that he informed Roskin and DBC of the move, but the confirmations and account statements were sent to his old address.

Claimant asserted that in September of 1994 Respondents made several unauthorized trades in his account. Claimant further asserted that those trades included the purchase of 5500 shares of La Jolla Pharmaceutical Co., the sale of 3000 shares of Incyte Pharmaceutical Inc., and the purchase and sale of 2000 units of Texas Biotechnology Corp. Claimant also asserted that he was unaware of these transactions until October at which time he was also informed that JLR had acquired the right to service his account as of September 27, 1994 with Roskin remaining as the account representative. Claimant alleged that he unsuccessfully attempted to contact Roskin about the trades.

9607103

Claimant alleged that he spoke with a representative of JLR about the trades but was unable to get the transactions reversed. Claimant further alleged that JLR liquidated all of the securities in his account except for 1000 shares of Stet Telecom. Claimant alleged that as a result of the above, he has suffered a loss for which the Respondents should be held liable.

Respondent Roskin maintained that he never executed any unauthorized trade in Claimant's account. Roskin further maintained that he was a registered representative of Maidstone Financial Corporation in May of 1994, and that Claimant opened a regular securities account and specifically signed an account agreement for a margin account. Roskin also maintained that over the following months, Claimant authorized the purchase of several securities. Roskin contended that he transferred to DBC and took Claimant's account with him. Roskin contended that he never made purchases of excess shares.

Roskin contended that in late August or early September of 1994, while he was employed by DBC, Claimant informed him of an address change. Roskin further contended that he is unaware of information concerning whether Claimant received confirmations, notices and statements subsequent to the change. Roskin also contended that the September trades in Claimant's account were fully authorized and that Claimant may be dissatisfied with the Incyte sale because the stock is currently selling for a considerably higher price. Roskin asserted that he is unaware of any activity with respect to Claimant's account after September 22, 1994, as DBC went out of business. Roskin further asserted that he made no misrepresentations to Claimant nor did he commit any fraudulent acts. Roskin maintained that as a result of the above, he should not be held liable.

Respondent JLR maintained that Roskin was never employed by it and therefore, it cannot comment on his activities. JLR further maintained that there was no unauthorized trading in Claimant's account during the time which it handled the account. JLR also maintained that it does not have information concerning Claimant's allegation that one of its agents informed him that "Roskin is no longer his broker." JLR contended that Claimant had the right to transfer his account to wherever Roskin was employed. JLR further contended that it received a letter from Claimant on October 18, 1994 but denies liability for the transactions Claimant is alleging were unauthorized. JLR also contended that all transaction conducted after September 27, 1994 were done pursuant to margin calls and were executed by Bear Stearns. JLR maintained that as a result of the above, it should not be held liable.

Respondent JLR entered a cross claim which alleged that in the event that it is held liable to Claimant for any damages, Respondents DBC and Roskin should indemnify it as they acted in their own right. JLR further alleged that should the panel assess joint and severally liability, Respondents Roskin and DBC should be held liable for the amount representing their culpability.

9607103

RELIEF REQUESTED

Claimant requested \$19,015 .00 in actual damages plus disgorgement of all fees and commissions paid to Respondents, interest, fees, costs, expenses and attorney's fees.

Respondent Roskin requested that the claims be dismissed in their entirety plus and award of attorney's fees, expenses, and other and further relief as the panel deems just and proper.

Respondent JLR requested that the claims be dismissed in their entirety.

Respondent JLR requested in a cross claim that Respondents DBC and Roskin be held liable for indemnification or contribution should it be held liable for the claims of the Claimant.

Respondent DBC did not file a Statement of Answer to the Statement of Claim or the cross claim of JLR.

OTHER ISSUES CONSIDERED & DECIDED

The arbitration panel made the following rulings concerning Respondent D. Blech & Co. who did not file a Statement of Answer nor a Submission Agreement, and who also failed to appear at the evidentiary hearing conducted in this matter.

1. Pursuant to Section 1 of the NASD Code of Arbitration Procedure, the panel found subject matter jurisdiction over this entire controversy.
2. The panel found that Respondent D. Blech & Co. was a member of the NASD at the time this controversy arose. Consequently, the panel found personal jurisdiction over Respondent pursuant to Section 12 of the NASD Code of Arbitration Procedure.
3. In view of (2) above, the panel found the Respondent D. Blech & Co. was required to file with the NASD a Statement of Answer and a properly executed Submission Agreement pursuant to Section 25(b) of the NASD Code of Arbitration Procedure. In this regard, the panel found that the Statement of Claim was properly served upon Respondent, pursuant to Section 25(a) of the Code.

9607103

4. In addition, in accordance with Sections 21, 26 and 29 of the NASD Code of Arbitration Procedure, the panel found that the NASD provided Respondent D. Blech & Co. with "due notice" of the hearing conducted in this matter by regular and certified mail. The panel therefore, determined to proceed with the hearing without Respondent D. Blech & Co., whose absence was unexcused.
5. Prior to the hearing on the merits, Respondent Tom Roskin reached a settlement with the Claimant and was, therefore, removed from the case.

The parties who appeared at the hearing 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. Prior to a hearing on the merits, Respondent Tom Roskin settled the matter with the Claimant.
2. The Respondent D. Blech & Co. is liable and shall pay to the Claimant Harry M. Brown \$18,015.00 in actual damages.
3. The Respondent D. Blech & Co. is liable and shall pay to the Claimant Harry M. Brown \$3,470.00 in interest.
4. The Respondent Josephthal Lyon & Ross, Inc. is liable and shall pay to the Claimant Harry M. Brown \$1,000.00 in actual damages.
5. The parties shall bear their respective costs and attorney's fees.
6. All other relief requests are denied.

9607103

FORUM FEES

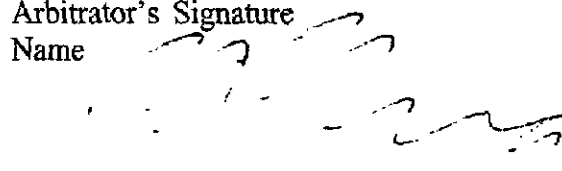
Pursuant to Section 43c of the Code of Arbitration Procedure, the arbitrators have determined that the NASD shall retain the \$100.00 non-refundable filing fee previously deposited by Claimant and have assessed the following forum fees:

2 sessions x \$400.00	= \$800.00
minus Claimant's \$400.00 deposit	= <u>\$400.00</u>
total outstanding	= \$400.00

Respondent Josephthal Lyon & Ross, Inc. be and hereby liable for the sum of \$900.00 representing the total amount of forum fees assessed plus the non-refundable filing fee. Therefore, Respondent Josephthal Lyon & Ross, Inc. shall pay to the Claimant \$500.00 as reimbursement of the non-refundable filing fee and hearing session deposit. In addition, Respondent Josephthal Lyon & Ross, Inc. shall pay \$400.00 to the National Association of Securities Dealers, Inc. representing the unpaid hearing session fees.

9607103

Arbitrator's Signature
Name



Edward F. Siegel, Esq.

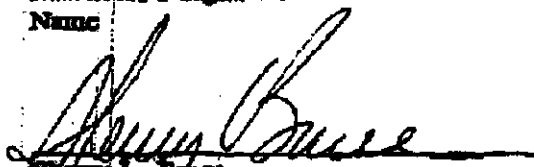
I, Edward F. Siegel, Esq., do hereby affirm that this is my decision in the above-captioned matter.



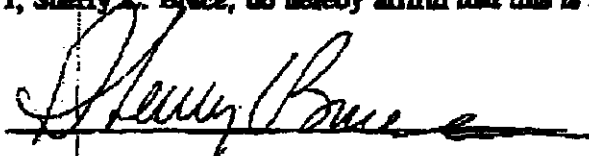
Date of Decision: July 11, 1996

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Arbitrator's Signature
Name


Sherry L. Bruce

I, Sherry L. Bruce, do hereby affirm that this is my decision in the above-captioned matter.



Date of Decision: July 11, 1996

9607103

ARBITRATORS SIGNATURES

Arbitrator's Signature
Name

Robert C. Devlin, Esq.
Robert C. Devlin, Esq.

I, Robert C. Devlin, Esq., do hereby affirm that this is my decision in the above-captioned matter.

Date of Decision: July 11, 1996