

NASD REGULATION AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS REGULATION

In the Matter of the Arbitration Between

Name of Claimant

David A. Boetcher, M.D.

95-04763

Name of Respondents

Ferris, Baker Watts, Inc.
Lloyd Victor Seested

REPRESENTATION

Claimant Robert H. Boetcher ("Claimant") was represented by Charles B. Wayne, Esq. of the law firm of Schwalb, Donnefield, Bray & Silbert, Washington, D.C..

Respondent Ferris, Baker Watts, Inc. ("FBW") and Respondent L. Victor Seested, Jr. ("Seested") were represented by Theodore W. Urban, Executive Vice President and General Counsel, Ferris, Baker Watts, Inc.

CASE INFORMATION

The Statement of Claim was filed on October 8, 1995.
Claimant's Amended Statement of Claim was filed on March 15, 1996.
Claimant's Reply to Counterclaim was filed on November 11, 1996.
Claimant's Uniform Submission Agreement was signed on October 6, 1995.

Respondents FBW and Seested (collectively referred to as "Respondents") Joint Statement of Answer and Counterclaim was filed on May 3, 1996.
Respondents' First Amended Counterclaim was filed on October 31, 1996.
FBW's Uniform Submission Agreement was signed on May 3, 1996.
Seested did not execute a Uniform Submission Agreement.

HEARING INFORMATION

Hearing Date/Session: January 7, 1997/one session

Hearing Location: NASD, Inc.
Washington, D.C.

CASE SUMMARY

Claimant alleged, among other things, that Seested engaged in improper sales practices and committed material misrepresentation and omissions to induce Claimant into selling 4000 shares of Mid-Atlantic Medical Services, Inc. ("MAMSI"). Claimant alleged that Seested encouraged Claimant to sell MAMSI in order to benefit insiders of MAMSI. Claimant alleged that Respondents committed fraud and deceit upon Claimant, in violation of federal and state securities laws and in violation of RICO. Claimant alleged that Respondents were negligent, that they breached their duties owed to Claimant and that they violated the NASD Rules of Fair Practice. Claimant alleged that FBW negligently supervised Seested in the management of Claimant's account and is liable for Seested's conduct based on the doctrine of Respondeat Superior.

Respondents categorically denied all allegations of wrongdoing asserted by Claimant. Respondents maintained, among other things, that Claimant exercised control over his account and ordered the sell of MAMSI. Respondents maintained that Claimant has not been injured in any manner and has suffered no losses. Respondents denied that Seested was engaged in any improper sales practices, misrepresentations or omissions. Respondents denied that they are responsible for any injury or loss that are being claimed by Claimant. Respondents asserted several affirmative defenses including but not limited to: Claimant's claim is barred by all applicable statutes of limitations; that the Amended Statement of Claim lists new allegations that were filed outside the NASD Regulation eligibility provision; and, that any damages incurred by Claimant's sale of MAMSI was the responsibility of MAMSI.

Respondents counterclaimed against Claimant and asserted, among other things, that Claimant filed a frivolous claim, that the claim was filed outside the applicable statutes of limitations and that the frivolous claim has damaged Seested's professional reputation.

Claimant replied to the counterclaim and maintained, among other things, that Claimant's claim is not frivolous, has merits and was timely filed.

RELIEF REQUESTED

Claimant requested damages in the approximate amount of \$500,000.00; plus interest at the prevailing statutory rate, plus damages for an unstated amount on commissions and mark ups plus punitive damages. Claimant further requests that all attorneys' fees, forum fees and costs be borne by Respondents.

Respondents requested that Claimant's claim be dismissed in its entirety. Respondents requested in their counterclaim that they be awarded legal fees and all costs incurred in defending this action. Moreover, Respondents requested that the Panel award an expungement of this action from Respondents FBW and Seested's Central Registration Depository record and to refrain from any further inclusion in such records of any mention of this action.

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.

The Panel recognized that the parties settled their claims against one another prior to hearing and that the parties agreed that Respondents could pursue L. Victor Seested, Jr.'s claim for expungement at the arbitration hearing.

AWARD

The Panel having considered the request of Respondents to have Seested's record expunged and after hearing the evidence and testimony has determined in full and final resolution of the issues submitted as follows:

1. That Respondents request to expunge L. Victor Seested, Jr.'s record is meritorious. The Panel directs that the record of L. Victor Seested, Jr. shall be expunged of any and all references to this claim filed by Claimant David A. Boetcher, M.D.
2. That any and all relief not specifically addressed herein is denied.

FORUM FEES

1 hearing sessions x \$1,000.00 = \$1,000.00 minus Claimant's hearing session deposit of \$1,000.00 = \$0 due to the NASD Regulation.

No further forum fees are assessed in this matter.

Date Award Signed

January 14, 1997

Concurring Arbitrators' Signatures

Stephen V. R. Whitman
Stephen V. R. Whitman, Esq., Chairperson
Public Arbitrator

Elaine A. Sehart-Green, Panelist
Public Arbitrator

John B. Nahan, Esq., Panelist
Industry Arbitrator

Date Award Served by the NASD Regulation, Inc.

January 16, 1997

The Panel recognized that the parties settled their claims against one another prior to hearing and that the parties agreed that Respondents could pursue L. Victor Seested, Jr.'s claim for expungement at the arbitration hearing.

AWARD

The Panel having considered the request of Respondents to have Seested's record expunged and after hearing the evidence and testimony has determined in full and final resolution of the issues submitted as follows:

1. That Respondents request to expunge L. Victor Seested, Jr.'s record is meritorious. The Panel directs that the record of L. Victor Seested, Jr. shall be expunged of any and all references to this claim filed by Claimant David A. Boetcher, M.D.
2. That any and all relief not specifically addressed herein is denied.

FORUM FEES

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No further forum fees are assessed in this matter.

Date Award Signed

Concurring Arbitrators' Signatures

Stephen V. R. Whitman, Esq., Chairperson
Public Arbitrator

1-13-97

Elaine A. Seht-Green
Elaine A. Seht-Green, Panelist
Public Arbitrator

John B. Nahan, Esq., Panelist
Industry Arbitrator

Date Award Served by the NASD Regulation, Inc. January 16, 1997

The Panel recognized that the parties settled their claims against one another prior to hearing and that the parties agreed that Respondents could pursue L. Victor Seested, Jr.'s claim for expungement at the arbitration hearing.

AWARD

The Panel having considered the request of Respondents to have Seested's record expunged and after hearing the evidence and testimony has determined in full and final resolution of the issues submitted as follows:

1. That Respondents request to expunge L. Victor Seested, Jr.'s record is meritorious. The Panel directs that the record of L. Victor Seested, Jr. shall be expunged of any and all references to this claim filed by Claimant David A. Boetcher, M.D.
2. That any and all relief not specifically addressed herein is denied.

FORUM FEES

1 hearing sessions x \$1,000.00 = \$1,000.00 minus Claimant's hearing session deposit of \$1,000.00 = \$0 due to the NASD Regulation.

No further forum fees are assessed in this matter.

Date Award Signed _____ Concurring Arbitrators' Signatures _____

Stephen V. R. Whitman, Esq., Chairperson
Public Arbitrator

Elaine A. Sehrt-Green, Panelist
Public Arbitrator

1-15-97


John B. Nelson, Esq., Panelist
Industry Arbitrator

Date Award Served by the NASD Regulation, Inc. January 16, 1997