

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Charles G. Christensen

96-00341

Name of Respondents

The Robinson-Humphrey Co., Inc.  
Brian Moore

**REPRESENTATION**

For Claimant Charles G. Christensen ("Claimant"), appeared George C. Chenggis, Esq. of Richardson & Chenggis, located in Atlanta, GA.

For Respondents The Robinson-Humphrey Co., Inc. ("RH") and Brian Moore ("Moore"), appeared Linda R. Alpert, Esq., in-house counsel for Smith Barney, Inc., located in New York, NY

**CASE INFORMATION**

The Statement of Claim was filed by Charles G. Christensen on January 23, 1996. Claimant's Submission Agreement was signed on January 17, 1996. Claimant's Response was filed on March 13, 1996.

Respondent The Robinson-Humphrey Co., Inc.'s Statement of Answer was filed on February 28, 1996. Respondent RH's Submission Agreement was signed February 28, 1996.

Respondent Brian Moore's Statement of Answer was filed on February 28, 1996. Respondent Moore's Submission Agreement was signed on February 2, 1996.

Respondents The Robinson-Humphrey Co., Inc. and Brian Moore's Reply was filed on March 20, 1996.

**HEARING INFORMATION**

Hearing Dates/Sessions:                      October 17, 1996                      2 Sessions

The hearings were conducted at Ritz Carlton Hotel, 181 Peachtree Street, N.E., Atlanta, GA 30303.

### **CASE SUMMARY**

Claimant alleged that on May 2, 1994, he personally delivered written instructions to Moore regarding how he wanted his account at RH handled. The letter dated May 2, 1994 contained an instruction to transfer Claimant's account from Kennedy, Cabot, & Co. to RH. Claimant stated he had confidence that his instructions were being followed and therefore felt he had no reason to monitor the activities in his account.

According to Claimant, he instructed Moore to place a stop loss on US Bioscience. Claimant argued that Moore failed to follow his instructions and his account was liquidated in December of 1994.

Respondents denied all allegations of wrongdoing and denied any liability. Respondents maintained that Claimant never gave Moore instructions to enter a place stop-loss on US Bioscience ("UBS"). Respondents specifically argued that Claimant's instruction to place a stop-loss would only be triggered if the stock moved to 14 and that never occurred. Moore allegedly advised Claimant to sell UBS, but Claimant refused. Respondents stated that the shares were sold to meet a margin call in December of 1994 which Claimant had failed to pay. Respondents argued several affirmative defenses including: failure to state a claim, Statute of limitations, ratification, failure to timely complain, transactions were appropriately entered and confirmed, laches, warn, estoppel, failure to mitigate, negligence, assumption of risk, superseding or intervening causes, no duty breached, no failure to supervise, no violation of federal state or common law, plus claimant is not entitled to attorneys' fees or punitive damages.

Claimant responded and stated, one of the reasons he left Kennedy, Cabot, & Co. was because they did not place stop-loss orders. Claimant further alleged that Respondents made unauthorized trades. Claimant argued that Respondents never advised him to sell UBS.

Respondents replied and claimed that Claimant's Statements were untrue. Respondents also claimed that they never told Claimant not to open or read his statements.

### **RELIEF REQUESTED**

Claimant requested \$87,431.27 in losses and an additional 25% to cover his costs of preparing his case.

Respondents requested that the claims be dismissed with costs and sanctions assessed against Claimant, and that RH recover the open debit balance in Claimant's account.

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

1. Claimant be and hereby is liable to Respondent Robinson-Humphrey Co., Inc. in the amount of \$1,629.12 which represents the outstanding debit balance in Claimant's account with Respondent Robinson-Humphrey.
2. All other claims are hereby dismissed.

**FORUM FEES**


Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed:

Non-refundable filing fee:	\$150.00
2 hearing sessions x \$500.00:	\$1,000.00
Total:	\$1,150.00

The arbitrators determined that the claimant shall be liable for the entire cost of this arbitration. Therefore claimant is liable and shall pay to the NASD the sum of \$1,150.00 less \$650.00 previously deposited by claimant, net \$500.00 due.

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

**ARBITRATORS' SIGNATURE**



James R. McGuone, Esq.

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William A. Lobb

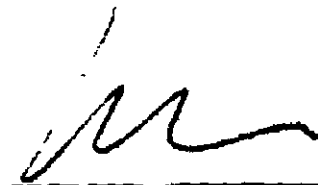
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Kendall P. Hill

Date of Decision: December 13, 1996

**ARBITRATORS' SIGNATURE**

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James R. McGuone, Esq.

A handwritten signature in black ink, appearing to be 'W. Webb', written over a horizontal line.

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William A. Webb

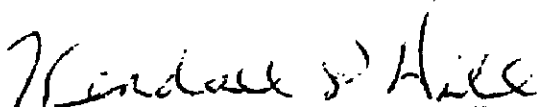
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