

AWARD

NASD Regulation, Inc. Office of Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

Scott M. Dubravac

and

96-02195

Name of Respondent

Strategic Resource Management, Inc.
Timothy Brannon

REPRESENTATION OF PARTIES

Scott M. Dubravac ("**Claimant**") was represented by Andrew I. Telsey, Esq., Aurora, Colorado and Steven L. Zimmerman, Esq., Denver, Colorado.

Strategic Resource Management, Inc. ("**Respondent Strategic**") was represented by Fred S. Furst, Esq., Krys Boyle Golz Freedman Scott and Sawyer, P.C., Denver, Colorado.

Timothy Brannon ("**Respondent Brannon**") was represented by Robert C. Roth, Esq., Kutak Rock, Denver, Colorado.

CASE INFORMATION

The Statement of Claim was filed on or about May 22, 1996. Submission Agreement of Claimant Scott M. Dubravac was signed on May 13, 1996.

Statement of Answer was filed by Respondent Strategic Resource Management, Inc. on or about July 19, 1996. Submission Agreement of Respondent Strategic Resource Management, Inc. was signed on July 18, 1996 by William A. Moler.

Statement of Answer was filed by Respondent Timothy Brannon on or about July 9, 1996. Submission Agreement of Respondent Timothy Brannon was signed on July 3, 1996.

HEARING INFORMATION

A pre-hearing conference was held on Thursday, January 16, 1997 for one (1) session with William H. Long, Esq., presiding.

The hearing was held on Tuesday, January 21, 1997 for two (2) sessions and Wednesday, January 22, 1997 for two (2) sessions in Denver, Colorado for a total of four (4) sessions.

CASE SUMMARY

Claimant alleged that Respondents violated their fiduciary duties, were negligent, engaged in wanton and willful misconduct and made fraudulent misrepresentations in connection with the purchase of shares of common stock of Hollywood Trenz, Inc.

In his Answer to the Statement of Claim, Respondent Brannon stated that he made no false representations of material fact to the Claimant nor did he omit to state material facts necessary to make any statement made, in light of the circumstances under which it was made, not misleading. Respondent Brannon also stated that the alleged statements about the future and statements of opinion were not false representations. It was further stated that he did not conceal from the Claimant any material facts which he had a duty to disclose. In addition, Respondent Brannon stated as follows:

That the Claimant has extensive investment experience in a wide range of investment instruments.

That the Claimant did not rely on his alleged statements, but relied upon his own experience and investigation. In the alternative, Claimant was aware of facts which would have prompted a reasonable person to make an independent investigation.

In its Answer to the Statement of Claim, Respondent Strategic generally denied the allegations set forth against it. Specifically, Respondent Strategic stated that it did not have sufficient knowledge of the facts since it did not participate in nor had knowledge of the communications between the Claimant and respondent Brannon.

RELIEF REQUESTED

Claimant requested an award in the amount of \$53,890.75, representing the actual losses incurred, plus interest at the statutory rate of 8% per annum from the date he acquired the relevant shares to the date of award and collection. Claimant also requested an award of the additional sum of \$136,120, representing the gain guaranteed by respondent Brannon, plus interest at the statutory rate of 8% per annum from the date he acquired the relevant shares to the date of award and collection. Claimant further requested an award of punitive damages, attorneys' fees and all costs and expenses incurred in this matter.

Respondent Strategic requested that the claims asserted against it be dismissed and that it be awarded its costs, including reasonable attorneys' fees incurred in defending the meritless allegations asserted against it in this matter.

OTHER ISSUES CONSIDERED & DECIDED

Subsequent to the prehearing and prior to the commencement of the hearing of this matter, Claimant reached a settlement of the claims asserted against Respondent Brannon.

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 original(s) remain on file with the NASD Regulation, Inc. Office of Dispute Resolution.

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. Respondent Strategic Resource Management, Inc. shall be and hereby is liable for and shall pay to the Claimant Scott M. Dubravac the sum of \$80,000 (**eighty thousand dollars**) as compensatory damages. In making this award of compensatory damages, the undersigned arbitrators find that the activities of Respondents Brannon and Strategic constituted fraud and were intentional and malicious.
2. Interest at the rate of 8% per annum is awarded on the above stated sum from and inclusive of September 1, 1994 to and inclusive the date this award is paid in full.
3. Respondent Strategic Resource Management, Inc. shall be and hereby is liable for and shall pay to the Claimant Scott M. Dubravac the sum of \$40,000 (**forty thousand dollars**) as punitive damages.
4. Respondent Strategic Resource Management, Inc. shall be and hereby is liable for and shall pay to the Claimant Scott M. Dubravac attorneys' fees and costs in the amount set forth in Claimant's attorneys fees and costs affidavit, unless Respondent objects to the reasonableness thereof, in which case the panel shall review the file and agree upon a final and binding award of fees and costs.


FORUM FEES


Forum fees are calculated at the rate of \$750 per hearing session and \$300 for each prehearing conference, if any. There was one (1) session x \$300 and four (4) sessions x \$750 = \$3,300 in forum fees. Pursuant to §10332(b) a hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less.


Pursuant to §10332(c) of the NASD Code of Arbitration Procedure, the NASD Regulation, Inc. Office of Dispute Resolution shall **retain** the non-refundable filing fee in the amount of \$200 and shall **retain** the hearing session deposit in the amount of \$750 previously deposited with the NASD Regulation, Inc. Office of Dispute Resolution by the Claimant Scott M. Dubravac. The NASD Regulation, Inc. Office of Dispute Resolution shall **retain** postponement fees in the amount of \$750 previously deposited by Respondent Strategic Resource Management, Inc. and apply this sum to the sum due for forum fees. Respondent Strategic Resource Management, Inc. shall be and hereby is liable for and shall pay to the NASD Regulation, Inc. Office of Dispute Resolution the sum of \$1,800 as the balance due for forum fees.

Pursuant to §10333 of the NASD Code of Arbitration Procedure, the NASD Regulation, Inc. Office of Dispute Resolution shall **retain** the non-refundable member surcharge in the amount of \$350 paid by respondent Strategic Resource Management, Inc..

Fees are payable to the NASD Regulation, Inc. Office of Dispute Resolution.


William H. Long, Esq.
Public Arbitrator, Presiding Chair


Marc H. Shtul, Esq.
Public Arbitrator


Scott Steinhauer
Industry Arbitrator

Dated:

1-22-97

Jan. 22, 1997

Jan. 22, 1997