

NATIONAL ASSOCIATION OF SECURITIES DEALERS REGULATION, INC.

In the Matter of the Arbitration Between

Name of Claimants

Alvin Biagas
Albert and Lucinda Biagas
Marlan Olson

96-04632

Name of Respondents

D.H. Blair & Company
Joseph Aguilera

REPRESENTATION

Claimants Alvin J. Biagas, Marlan Olson, Albert P. Biagas, and Lucinda Biagas ("Claimants") were represented by A. Scott Bolden, Esq. and David Ober, Esq., Reed Smith Shaw & McClay, LLP, Washington, DC.

Respondents D.H. Blair & Co. ("DHB") and Joseph A. Aguilera ("Aguilera") were represented by Robert Crane, Esq., Bachner, Tally, Polevoy & Misher, LLP, New York, NY.

CASE INFORMATION

The Statement of Claim was filed on October 17, 1996.
Claimant Alvin Biagas' Uniform Submission Agreement was signed on September 21, 1996.
Claimant Marlan Olson's Uniform Submission Agreement was signed on September 17, 1996.
Claimants Albert & Lucinda Biagas' Uniform Submission Agreement was signed on September 18, 1996.

The Joint Statement of Answer Respondents DHB and Aguilera (collectively "Respondents") was filed on January 6, 1997.
Respondent DHB's Submission Agreement was signed on March 11, 1997.
Respondent Aguilera's Submission Agreement was signed on February 21, 1997.

HEARING INFORMATION

Hearing Dates/Sessions:	August 20, 1997/two sessions August 21, 1997/two sessions
Hearing Location:	NASD Headquarters Washington, D.C.
Hearing Dates/Sessions:	October 14, 1997/two sessions October 15, 1997/two sessions

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Hearing Location: NASD District Office
Washington, D.C.

Hearing Dates/Sessions: December 9, 1997/two sessions
December 10, 1997/two sessions

Hearing Location: NASD Headquarters
Washington, D.C.

CASE SUMMARY

Claimants alleged that beginning in 1991, Aguilera, a registered representative at DHB solicited, first Claimant Alvin Biagas, and later Claimants Albert & Lucinda Biagas and Marlan Olson, to purchase shares of VIMRx Pharmaceuticals, Inc. (VIMRx), a biopharmaceutical company founded in 1988. Claimants further alleged that during the ensuing four and one-half years, the Claimants accumulated a substantial number of shares in VIMRx, and by March 4, 1996, Claimants held approximately 133,350 shares in their various accounts.

Claimants asserted that over the years, Claimant Alvin Biagas followed VIMRx's prospects, and decided that the company had a bright future, and based on his knowledge of the company, Alvin Biagas determined that it was reasonable to expect VIMRx stock to attain a price around \$6 per share in the near future. Claimants contended that this expectation was supported by market research conducted and distributed by another brokerage firm and supplied to Claimants by Aguilera. Claimants alleged that Claimant Alvin Biagas shared this expectation with Claimants Marlan Olson, his accountant as well as Albert Biagas, his uncle.

Claimants alleged that around the beginning of 1996, Aguilera and DHB became aware of information about VIMRx which they expected would cause a substantial increase in the price of VIMRx stock and they determined to engage in a course of conduct designed to manipulate the market for VIMRx stock by improperly depressing the price of VIMRx. Claimants alleged that Respondents manipulated the market by causing VIMRx shareholders to sell their stock in order to keep the rising demand from causing an increase in the price. Claimants further alleged that on March 4, 1996, Aguilera called Claimant Albert Biagas and strongly recommended that Claimant Albert Biagas sell his VIMRx stock based on a complete reversal of his prior representations, and contrary to his inside knowledge, Aguilera stated that VIMRx was not looking good, that it was failing, and that Claimant Albert Biagas should immediately divest himself of his entire holding of VIMRx stock. Claimant Albert Biagas relied upon Aguilera misrepresentations and following his recommendation on March 4, 1996, Claimant Albert Biagas authorized Aguilera to sell all his shares of VIMRx at a price of \$1.59 per share.

Claimants further alleged that also on March 4, 1996, Aguilera called Claimant Marlan Olson and induced him to sell his remaining VIMRx stock (Aguilera had already convinced Claimant Olson to sell 10,000 shares of VIMRx on February 4, 1996). Claimants alleged that relying on Aguilera's misrepresentations that VIMRx was failing, Claimant Olson authorized Aguilera to sell all his remaining shares of VIMRx at a price of \$1.53 per share.

Claimants alleged that Aguilera was unable to reach Claimant Alvin Biagas by telephone until March 13, 1996 with the recommendation to sell his positions in VIMRx which Claimant Alvin Biagas refused to do during the conversation. Nevertheless, Claimants alleged that Aguilera sold all of Claimant Alvin Biagas' shares of VIMRx on March 13, 1996 at prices ranging from \$1.60 to \$1.70 per share. Claimants

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alleged that when Claimant Alvin Biagas realized what Aguilera had done, he demanded that Aguilera and DHB reverse the transactions, which Respondents refused to do, although they had the ability to reverse the transactions.

Claimants alleged that on March 21, 1996, VIMRx issued a press release announcing a substantial new investment in the company by a group of investments led by Ronald O. Perelman, a noted leader in the securities industry, VIMRx stock immediately began climbing in value, and reached a price over \$5.00 a share approximately four weeks later. Therefore, Claimants alleged Respondents (1) induced Claimants to authorize transactions based on misrepresentations and omissions; (2) engaged in unauthorized transactions; (3) traded on insider information; (4) committed fraud; and (5) participated in market manipulation.

Respondents denied the allegations as asserted in the Statement of Claim. Respondents maintained that every trade in Claimants' accounts was authorized, that Respondents had no insider information and further did not benefit from the sale of the stock at issue. Furthermore, Respondents asserted that there was no market manipulation, only customer selling based upon a reasonable sale recommendation.

RELIEF REQUESTED

Claimants requested \$324,234.57 in compensatory damages, \$60,000.00 in attorney's fees and costs and \$500,000.00 in punitive damages for Claimant Alvin J. Biagas; \$63,136.92 in compensatory damages and \$500,000.00 in punitive damages for Claimant Marlan Olson; and \$44,554.39 in compensatory damages and \$500,000.00 in punitive damages for Claimants Albert P. and Lucinda Biagas.

Respondents requested that all claims should be dismissed and all costs and fees, including attorney's fees, be assessed against Claimants.

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

1. That the claims are denied in their entirety; and
2. That the claim for punitive damages is denied; and
3. That each party shall bear its own costs and expenses, including attorney's fees, with the exception of Forum Fees as specified below.
4. That any and all relief not specifically addressed herein is denied.

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OTHER COSTS

Pursuant to Rule 10333 of the NASD Regulation Code of Arbitration Procedure ("Code"), Respondent DHB is assessed a member surcharge of \$500.00. Respondent DHB will receive a credit for the surcharge deposit previously submitted to the NASD Regulation, leaving no further surcharge due.

FORUM FEES

Pursuant to Rule 10332 of the Code, the following Forum Fees are assessed:

12 sessions x \$1,000.00 = \$12,000.00

Forum Fees are assessed at \$6,000.00 to Claimants, jointly and severally and \$6,000.00 to Respondents, jointly and severally.

Claimants shall receive credit for the \$1,000.00 hearing session deposit previously submitted to the NASD Regulation, leaving a net assessment due from Claimants of \$5,000.00.

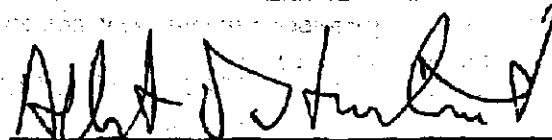
Respondents have a net assessment due of \$6,000.00.

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

DATE

CONCURRING ARBITRATORS' SIGNATURES

Jan 6, 1998



Albert D. Sturtevant, Presiding
Public Arbitrator

Gloria Asher
Public Arbitrator

James Edward Knowles
Industry Arbitrator

Date Decision Served by NASD Regulation:

January 12, 1998

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Respondents have a net assessment due of \$6,000.00.

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

DATE **CONCURRING ARBITRATORS' SIGNATURES**

[Handwritten signature]

Albert D. Sturtevant, Presiding
Public Arbitrator

Dec. 29, 1997

[Handwritten signature: Gloria Asher]

Gloria Asher
Public Arbitrator

James Edward Knowles
Industry Arbitrator

Date Decision Served by NASD Regulation:

[Handwritten signature: January 12, 1998]

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Respondents have a net assessment due of \$6,000.00.

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

DATE

CONCURRING ARBITRATORS' SIGNATURES

Albert D. Sturtevant, Presiding
Public Arbitrator

Gloria Asher
Public Arbitrator

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James Edward Knowles
Industry Arbitrator

Date Decision Served by NASD Regulation:

January 12, 1998