

## **AWARD**

NASD Regulation, Inc. Office of Dispute Resolution

---

In the Matter of the Arbitration Between

Leonard M. Bugli, and  
Lacaria Building Company, Inc.,

Claimants,

and

Case Number: 96-05737

Biltmore Securities, Inc.,  
Glenn Aursland, Alan Siemens,  
Richard Bruce Bronson, and  
Elliot Akiva Loewenstern,

Respondents.

---

### **REPRESENTATION OF PARTIES**

Claimants Leonard M. Bugli ("Bugli") and Lacaria Building Company, Inc. ("Lacaria Building Company") (collectively referred to as "Claimants") were represented by Edward M. Olson, Esq. of Velardo, Sugameli & Olson, P.L.C. located in Troy, Michigan.

Respondents Biltmore Securities, Inc. ("Biltmore Securities"), Glenn Aursland ("Aursland"), Alan Siemens ("Siemens"), Richard Bruce Bronson ("Bronson"), and Elliot Akiva Loewenstern ("Loewenstern") (collectively referred to as "Respondents") were represented by Francis R. Ortiz, Esq. of Dickenson, Wright, Moon, Van Dusen & Freeman located Detroit, Michigan.

### **CASE INFORMATION**

The Statement of Claim was filed on or about December 17, 1996.

Claimants' Submission Agreement was signed on December 11, 1996.

Respondents' Joint Statement of Answer was filed on or about May 26, 1997.

Respondent Biltmore's Submission Agreement was signed on February 20, 1997.

Respondent Aursland's Submission Agreement was signed on April 14, 1997.

Respondent Siemens' Submission Agreement was signed on February 20, 1997.

Respondent Bronson's Submission Agreement was signed on February 20, 1997.

Respondent Loewenstern's Submission Agreement was signed on February 20, 1997.

### HEARING INFORMATION

The Hearing in this matter was held on January 5, 1998 for two (2) sessions, January 6, 1998 for two (2) sessions and January 7, 1998 for three (3) sessions. The hearing location was Southfield, Michigan.

### CASE SUMMARY

Claimants alleged that Respondent Aursland, a registered representative of Respondent Biltmore Securities, convinced Claimants to send large sums of money to Biltmore Securities in order to begin trading. Claimants contended that Respondent Aursland made numerous false representations during their negotiations and discussions. Claimants asserted that Respondents Alan Siemens, Richard Bruce Bronson, and Elliot Akiva Loewenstern were principals of Biltmore Securities and responsible for supervising Respondent Aursland and for adopting the policies which have wrongfully harmed Claimants. Claimants maintained that they lacked experience in trading securities other than mutual funds and other small transactions. Claimants asserted that Respondents Aursland and Biltmore Securities made unsuitable recommendations to Claimants to purchase and sell large positions in a number of very thinly traded stocks in which Biltmore Securities made a market and also acted as an underwriter. Claimants alleged that Respondents made various misrepresentations and material omissions with respect to the investments at issue.

Respondents denied all liability to Claimants in their Joint Statement of Answer. Respondents contended that Claimants were experienced investors with accounts at other brokerage firms and had investment objectives of growth and speculation. Respondents asserted that both Claimants indicated substantial net worth, annual income, and a substantial existing market portfolio. Respondents maintained that Biltmore Securities had thoroughly researched each of the securities purchased by Claimants and that these investments were suitable for Claimant's stated investment objectives.

### **RELIEF REQUESTED**

Claimants requested an award of compensatory damages in the amount of \$294,032.26, interest and costs in the amount of \$36,950.00, attorney fees in an amount of \$20,000.00. as well as sanctions in an amount to be determined.

Respondents requested that the Statement of Claim be dismissed in its entirety with prejudice and that Respondents be awarded their costs and attorney fees.

### **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 original(s) remain on file with 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. Respondents Biltmore Securities, Inc., Glenn Aursland and Alan Siemens are jointly and severally liable for and shall pay to Claimant Leonard M. Bugli damages in the amount of Fifty Thousand Dollars and No Cents (\$50,000.00);
2. Respondents Biltmore Securities, Inc., Glenn Aursland and Alan Siemens are jointly and severally liable for and shall pay to Claimant Lacaria Building Company, Inc. damages in the amount of Fifty Thousand Dollars and No Cents (\$50,000.00);
3. All claims against Respondents Richard Bruce Bronson and Elliot Akiva Loewenstern are dismissed in their entirety with prejudice;
4. Other than forum fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and
5. Any relief not specifically enumerated is hereby denied.

### **FORUM FEES**

Forum fees are calculated at the rate of \$750 per hearing session and \$300 per pre-hearing session, if any. There were seven (7) hearing sessions x \$750 = \$5,250 in forum fees. Pursuant to §10332(b) of the NASD Code of Arbitration Procedure ("Code"), 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 Code, NASD Regulation, Inc. Office of Dispute Resolution shall retain the non-refundable filing fee in the amount of \$200 and shall retain as forum fees the hearing session deposit in the amount of \$750 previously deposited with NASD Regulation, Inc. by the Claimants.

Pursuant to §10332(c) of the Code, NASD Regulation, Inc. Office of Dispute Resolution shall retain the postponement deposit in the amount of \$750 previously deposited with NASD Regulation, Inc. by the Respondents.

Pursuant to §10333 of the Code, NASD Regulation, Inc. Office of Dispute Resolution shall retain Respondent Biltmore Securities' Member Surcharge in the amount of \$350.

Pursuant to §10332(c) of the Code, Claimants are jointly assessed and shall pay to NASD Regulation, Inc. Office of Dispute Resolution forum fees in the amount of \$1,875 (½ total forum fees - hearing session deposit).

Pursuant to §10332(c) of the Code, Respondents are jointly assessed and shall pay to NASD Regulation, Inc. Office of Dispute Resolution forum fees in the amount of \$2,625 (½ total forum fees).

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

Concurring Arbitrators' Signatures

\s\ Robert J. Scafuri, Esq.  
Robert J. Scafuri, Esq.  
Chairperson  
Public Arbitrator

January 30, 1998  
Dated:

\s\ Paul M. Stoychoff, J.D.  
Paul M. Stoychoff, J.D.  
Panelist  
Public Arbitrator

February 1, 1998  
Dated:

\s\ Richard M. Pauly  
Richard M. Pauly  
Panelist  
Industry Arbitrator

February 2, 1998  
Dated:

For NASD Regulation use only:  
Date award served on the parties: February 3, 1998