

NASD Regulation, Inc. AWARD

In the Matter of the Arbitration Between

Name of Claimant

Kay A. Mills

and

97-06055

Name of Respondent

Vincent Greico
Rauscher Pierce Refsnes, Inc. n/k/a Dain Rauscher, Inc.

REPRESENTATION OF PARTIES

Kay A. Mills ("**Claimant**") was represented by C. William Brownfield, Esq., C. William Brownfield & Associates, Columbus, Ohio.

Vincent Greico ("**Respondent Greico**") was represented by Steven A. Samide, Esq., Mintz & Gold, New York, New York. By letter dated October 14, 1998, NASD Regulation, Inc. Office of Dispute Resolution (the "NASD") was notified of the withdrawal of counsel. Respondent Greico did not appear at the hearing.

Rauscher Pierce Refsnes, Inc. n/k/a Dain Rauscher, Inc. ("**Respondent**") was represented by John M. Orenstein, Esq., Dain Rauscher, Inc., Minneapolis, Minnesota.

CASE INFORMATION

The Statement of Claim was filed on or about December 30, 1997. Submission Agreement of Claimant Kay A. Mills was signed on December 27, 1997.

Statement of Answer was filed by Respondent Vincent Greico on or about May 11, 1998.

By letter dated June 24, 1998, the NASD was notified of the dismissal, with prejudice, of Respondent Rauscher Pierce Refsnes, Inc. n/k/a Dain Rauscher, Inc.

HEARING INFORMATION

The hearing was held on Wednesday, October 20, 1998 for one (1) session and Thursday, October 22, 1998 for two (2) sessions in Columbus, Ohio for a total of three (3) sessions.

CASE SUMMARY

Claimant alleged that Respondent Greico sold without authorization her shares of Applied Innovation on or about January 25, 1994. It was also alleged that Respondent Greico used the proceeds from the unauthorized sale to purchase shares of MedGroup Corp. Claimant further alleged that Respondent Greico then sold without authorization the shares of MedGroup Corp. and purchased shares of Phoenix Media Group without authorization. Claimant alleged that the actions of Respondent constituted common law fraud, conversion, negligence, and gross negligence.

Respondent Greico denied the allegations set forth in the Statement of Claim. Respondent Greico specifically stated all transactions which occurred in Claimant's account were carried out in accordance with the instructions of Claimant and in conformity with all applicable rules, regulations, industry standards and practices.

RELIEF REQUESTED

Claimant requested an award of compensatory damages in the approximate amount of \$290,000.00, punitive damages in the amount of \$500,000.00, costs, and all other and further relief to which she may be justly entitled.

Respondent Greico requested that the arbitration panel dismiss the Statement of Claim in its entirety, award him his costs and expenses, and grant him such other and further relief as is just and proper.

OTHER ISSUES CONSIDERED & DECIDED

Upon review of the file and the representations made by/on behalf of the Claimant, the undersigned arbitrators have determined that Respondent Vincent Greico had been properly served with the Statement of Claim pursuant to Rule 10302 and Rule 10314 of the NASD Code of Arbitration Procedure (the "Code"). The undersigned arbitrators have also determined that Respondent Vincent Greico had received due notice of the hearing as required under Rule 10315 of the Code and that arbitration of the matter would proceed pursuant to Rule 10318 of the Code.

Respondent Vincent Greico did not file with the NASD a properly executed submission to arbitration but is required to submit to arbitration pursuant to Rule 10301 of the Code and having answered the claim is bound by the determination of the arbitration panel on all issues submitted.

The party present has 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.

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 Vincent Greico shall be and hereby is liable for and shall pay to the Claimant Kay A. Mills the sum of \$247,600.00 (**Two Hundred Forty Seven Thousand Six Hundred Dollars**) This sum includes an award of pre-award interest in the amount of \$59,600.00. In making this award, the undersigned arbitrators have considered the settlement with First Trust in the amount of \$100,000.00 and have set off that sum in calculating the compensatory damages awarded herein.
2. Interest at the rate of 10% per annum is award on the above stated sum from and inclusive of October 22, 1998 to and inclusive of the date this award is paid in full.
3. Each party shall bear its own costs, expenses and fees, including but not limited to attorneys' fees, incurred in this matter not specifically enumerated herein.
4. Any requests not specifically provided for herein have been denied.

FORUM FEES

Forum fees are calculated at the rate of \$1,000.00 per hearing session and \$300.00 for each pre-hearing conference, if any. There were three (3) sessions x \$1,000.00 = \$3,000.00 in forum fees. Pursuant to Rule 10332(b) of the NASD Code of Arbitration Procedure (the "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 Rule 10332(c) of the Code, the NASD shall **retain** the non-refundable filing fee in the amount of \$250.00 and shall **retain** as forum fees the hearing session deposit in the amount of \$1,000.00 previously deposited with the NASD by the Claimant Kay A. Mills. Claimant Kay A. Mills shall be and hereby is liable for and shall pay to the NASD the sum of \$2,000.00 as the balance due for forum fees.

Pursuant to Rule 10333 of the Code, Respondent Rauscher Pierce Refsnes, Inc. n/k/a Dain Rauscher, Inc. shall pay to the NASD the past due member surcharge in the amount of \$2,000.00 previously invoiced. **Fees are payable to the NASD Regulation, Inc. Office of Dispute Resolution.**

Dated:

/s/ Jeffrey M. Bain

Jeffrey M. Bain, Esq.
Public Arbitrator, Presiding Chair

November 3, 1998

/s/ Arnold M. Malech

Arnold M. Malech, Esq.
Public Arbitrator

October 30, 1998

/s/ Leo J. Antosz

Leo J. Antosz
Industry Arbitrator

October 30, 1998