

AWARD
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between

Robert C. Schmidt, Trustee of the
Robert C. Schmidt Trust U/A/D May 26, 1982
and
Robert Schmidt, Trustee of the
Robert Schmidt Insurance Agency Assumed
Benefit Plan U/A/D December 31, 1981

and

00-00801
Southfield, Michigan

Tasin & Co., Inc.
Salvatore Sapienza
Eric Weschke
Michael E. Sackstein
Thomas J. Mullaly
Richard P. McGuire
Stephen P. Donahue
Robert F. Tassinari, Jr.
Mario P. Volpi
Matthew Defelice
Joseph J. Lopresti, and
Robert J. Rosato

REPRESENTATION OF PARTIES

Claimants, Robert C. Schmidt, Trustee of the Robert C. Schmidt Trust U/A/D May 26, 1982 ("Schmidt Trust") and Robert Schmidt, Trustee of the Robert Schmidt Insurance Agency Assumed Benefit Plan U/A/D December 31, 1981, ("Retirement Plan"), hereinafter referred to collectively as "Claimants," were represented by Laurence S. Schultz, Esq., Driggers, Schultz & Herbst, Troy, Michigan.

Respondent Tasin & Co., Inc. ("Tasin") : Did not appear at hearing.

Respondent Salvatore Sapienza ("Sapienza") : Did not appear at hearing.

Respondents Tasin and Sapienza, were previously represented by Michael P. Rubas, Esq., and Ernest Badway, Esq. Saber, Schlesinger, Satz & Goldstein, LLC, Newark, New Jersey.

Respondent Eric Weschke ("Weschke") was represented by: Walter L. Baumgardner, Esq., Musilli Baumgardner Wagner & Parnell, PC, St. Clair Shores, Michigan.

Respondents Richard P. McGuire, Matthew Defelice, Mario P. Volpi, Stephen P. Donahue,

Robert F. Tassinari, Jr., Robert J. Rosato, and Joseph J. Lopresti, were previously represented by Michael P. Rubas, Esq., and Ernest Badway Esq., Saber, Schlesinger, Satz & Goldstein, LLC, Newark, New Jersey.

Respondent McGuire previously was represented by Scott Silver, Esq., Gusrae, Kaplan and Bruno, New York, New York.

Respondent DeFelice was represented by Lee D. Unterman, Esq., Kurzman Karelsen & Frank, LLP, New York, New York, from on or about April 16, 2001, until on or about November 2, 2001,

Respondent Tassinari, Jr. was represented by Jerry Lefkowitz, Esq., Lake Success, New York.

Respondent Michael E. Sackstein did not appear.

Respondent Thomas J. Mullaly did not appear.

CASE INFORMATION

The Statement of Claim was filed on or about February 14, 2000. The Submission Agreement of Robert C. Schmidt, Trustee of the Robert C. Schmidt Trust U/A/D May 26, 1982, was signed by Robert C. Schmidt, Trustee on or about January 5, 2000. The Submission Agreement of Robert Schmidt, Trustee of the Robert Schmidt Insurance Agency Assumed Benefit Plan U/A/D December 31, 1981, was signed by Robert C. Schmidt, Trustee on or about January 5, 2000.

Statement of Answer and Cross-Claims for Indemnification and Contribution against Eric Weschke was filed by Respondent Tasin & Co., Inc. on or about May 15, 2000.

Answer to the Statement of Claim, Counterclaims and Cross-Claims filed by Respondent Volpi, Rosato, and Lopresti filed on or about April 16, 2001. Respondent Mario Volpi signed the Submission Agreement on or about May 15, 2001

Statement of Answer was filed by Respondent Eric Weschke on or about July 31, 2001.

Statement of Answer and Cross-Claim for Indemnification and Contribution against Respondents Weschke, Tasin and Sapienza was filed by Robert F. Tassinari, Jr. on or about April 6, 2001.

Respondent, Stephen Donahue filed a Motion to Dismiss on or about: August 27, 2001. Claimants filed a Response to Motion to Dismiss on or about September 13, 2001.

Respondent Tassinari filed a Notice of Motion on or about August 7, 2001. Respondents Volpi, Rosato, and Lopresti filed a Motion to Dismiss on or about August 15, 2001. Respondent DeFelice filed a Motion for Summary Disposition on or about August 19, 2001. Claimants filed a Response to Motions to Dismiss filed by Respondents Tassinari, Jr., DeFelice, Volpi, Rosato, and Lopresti on or about: August 28, 2001.

CASE SUMMARY

Claimants asserted the legal bases for the claim including the following: Breach of fiduciary duty; Misrepresentation and deceptive devices; Breach of contract; Violation of NASD rules; and Respondeat superior. The causes of action relate to alleged unauthorized trading on margin in various stocks.

Unless specifically admitted in its Answer, Respondent Tasin denied the allegations in the Statement of Claim and asserted separate defenses including the following: Claimants have failed to state a claim for which relief can be granted; the alleged losses of Claimants were proximately caused by its agent's conduct or negligence in relation to the transactions complained of and, therefore, Claimant is precluded from recovery herein, and Claimants, through its agent, had full complete and contemporaneous knowledge of the acts complained of and did ratify all the acts. Claimant is therefore estopped and has waived any cause of action he may have had in this regard.

Unless specifically admitted in his Answer, Respondent Weschke denied the allegations in the Statement of Claim and asserted affirmative defenses including the following: Collateral estoppel; Statute of limitations; Assumption of risk; Failure to state a claim upon which relief can be granted; Waiver; Laches; Intervening cause; Ratification; Acceptance; and Statute of frauds.

Unless specifically admitted in their Answer, Respondents Volpi, Rosato, and Lopresti denied the allegations in the Statement of Claim and asserted a Counterclaim for: Abuse of process and Malicious prosecution, in addition to a Cross Claim against Respondent Weschke for indemnification and contribution.

Unless specifically admitted in his Answer, Respondent DeFelice denied the allegations in the Statement of Claim and asserted a Cross-Claim against Respondents Weschke and Tasin for indemnification and contribution.

Unless specifically admitted in his Answer, Respondent Tassinari, Jr., denied the allegations in the Statement of Claim and asserted Cross-Claims against Respondents Weschke, Tasin, and Sapienza for indemnification and contribution.

RELIEF REQUESTED

Claimant, Schmidt Trust, requested an award in the amount of \$468,327.00. Claimant, Retirement Plan requested an award of \$78,381.00, plus lost opportunity, refund of commissions, and exemplary/punitive damages (including damages for emotional distress and severe mental anguish), in addition to interest costs, attorneys' fees, and such other relief as may be awarded. At hearing, Claimants requested that their relief requests be granted against Respondents Tasin, Sapienza, and Weschke only.

Respondent Tasin requested that the claims asserted it be dismissed in their entirety and that it be awarded an expungement, costs and attorneys' fees.

Respondent Weschke requested unspecified relief.

Respondents Volpi, Rosato, and Lopresti requested dismissal, expungement, costs, expenses, an award from Respondent Weschke if Respondents are found liable, and award of their counterclaims for compensatory and punitive damages; and all other and further remedies or relief that the Arbitration Panel may deem just, proper and equitable.

Respondent DeFelice requested dismissal, expungement, costs, attorneys' fees, and judgment for indemnification and contribution for all damages, costs, and attorney's fees from Respondents Weschke and Tasin if Respondent is found liable.

Respondent Tassinari requested dismissal, expungement, costs, attorney's fees, and judgment for indemnification and contribution from Respondents Weschke, Tasin, and Sapienza if Respondent is found liable for any damages, costs, and attorney's fees.

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 Tasin & Co., Inc., and Salvatore Sapienza have 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 Tasin & Co., Inc., and Salvatore Sapienza 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.

Respondents Tasin & Co., Inc., Salvatore Sapienza, and Eric Weschke did not file with the NASD Dispute Resolution, Inc. a properly executed submission to arbitration but is required to submit to arbitration pursuant to Rule 10301 of the NASD Code of Arbitration Procedure (the "Code") are bound by the determination of the arbitration panel on all issues submitted.

The parties appearing at hearing were Claimants and Respondent Weschke.

Respondents Tasin, DeFelice, Volpi, Rosato and Lopresti withdrew their Cross-Claims for Indemnification and Contribution against Respondent Weschke on or about October 11, 2000. The Panel did not adjudicate any Cross-Claims against Respondent Weschke.

The Panel denied the Motions to Dismiss filed by Respondents Donahue, Tassinari, Jr., DeFelice, Volpi, Rosato, and Lopresti on or about October 5, 2002.

Claimants advised the Panel at hearing, that they were proceeding against Respondents Tasin & Co., Inc., Sapienza, and Weschke only. The Panel did not adjudicate any claims against Respondents Michael E. Sackstein, Thomas J. Mullaly, Richard P. McGuire, Stephen P. Donahue, Robert F. Tassinari, Jr., Mario P. Volpi, Matthew DeFelice, Joseph J. Lopresti, and Robert J. Rosato. The Panel did not adjudicate any counterclaims or cross-claims.

Claimants requested a Default Judgment against Tasin & Company, Inc., and Salvatore Sapienza at hearing, which the Panel took under advisement.

The parties present 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 Dispute Resolution, Inc. (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.) Respondents Tasin & Company, Inc., and Salvatore Sapienza are jointly and severally liable for and shall pay to Claimant Robert C. Schmidt, Trustee of the Robert C. Schmidt Trust U/A/D May 26, 1982, a default judgment in the amount of \$100,000.00;
- 2.) Respondents Tasin & Company, Inc., Salvatore Sapienza, and Eric Weschke are jointly and severally liable for and shall pay to Claimant Robert C. Schmidt, Trustee of the Robert C. Schmidt Insurance Agency Assumed Benefit Plan U/A/D December 31, 1981, the sum of \$50,000.00 in compensatory damages;
- 3.) Respondents Tasin & Company, Inc., Salvatore Sapienza, and Eric Weschke are jointly and severally liable for and shall pay to Claimant Robert S. Schmidt, Trustee of the Robert Schmidt Insurance Agency Assumed Benefit Plan U/A/D December 31, 1981, the sum of \$5,000.00 in attorneys fees pursuant to statute;
- 4.) That other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter;
- 5.) That any relief not specifically enumerated, including punitive/exemplary damages, is hereby denied with prejudice.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$375.00
Cross-Claim and Counterclaim filing fee (Volpi, Rosato, Lopresti)	= \$250.00
Cross-Claim filing fee (Tasin)	= \$500.00
Cross-Claim filing fee (DeFelice)	= \$250.00
Cross-Claim filing fee (Tassinari, Jr.)	= \$250.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person(s) at the time of the events giving rise to the dispute. In this matter, the member firm is Tasin & Co., Inc.

Member surcharge	= \$3,500.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$2,000.00

Forum Fees and Assessments

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) Pre-hearing sessions with Panel x \$1,200.00	= \$2,400.00
Pre-hearing conferences: March 19, 2001 1 session	
April 3, 2001 1 session	
Four (4) Hearing sessions x \$1,200.00	= \$4,800.00
Hearing Dates: December 3, 2001 2 sessions	
December 4, 2001 2 sessions	
<hr/> Total Forum Fees	<hr/> = \$7,200.00

The Arbitration Panel has assessed \$3,360.00 of the forum fees jointly and severally to Robert C. Schmidt Trust and Robert Schmidt Insurance Agency Plan.

The Arbitration Panel has assessed \$3,840.00 of the forum fees jointly and severally to Tasin & Co., Inc. Salvatore Sapienza, and Eric Weschke.

Fee Summary

Claimants, Claimants, Robert C. Schmidt, Trustee of the Robert C. Schmidt Trust U/A/D May 26, 1982 ("Schmidt Trust") and Robert Schmidt, Trustee of the Robert Schmidt Insurance Agency Assumed Benefit Plan U/A/D December 31, 1981, ("Retirement Plan"), are jointly and severally liable for:

Initial Filing Fee	= \$ 375.00
Forum Fees	= \$ 3,360.00
Total Fees	= \$ 3,735.00
Less payments	= \$ 1,575.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 2,160.00

Respondent, Tasin & Co., Inc., is solely liable for:

Cross-Claim Filing Fee	= \$ 500.00
Member Fees	= \$ 6,100.00
Total Fees	= \$ 6,600.00
Less payments	= \$ 1,850.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 4,750.00

Respondents, Tasin & Co., Inc. Salvatore Sapienza , and Eric Weschke, are jointly and severally liable for:

Forum Fees	= \$ 3,840.00
Total Fees	= \$ 3,840.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 3,840.00

Respondent, Robert F. Tassinari, Jr., is liable for:

Cross-Claim Filing Fee	= \$ 250.00
Total Fees	= \$ 250.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 250.00

Respondent, Matthew DeFelice, is liable for:

Cross-Claim Filing Fee	= \$ 250.00
Total Fees	= \$ 250.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 250.00

Respondents, Mario Volpe, Robert J. Rosato, and Joseph J. Lopresti, are jointly and severally liable for:

Cross-Claim and Counterclaim Filing Fee	= \$	250.00
Total Fees	= \$	250.00
Less payments	= \$	834.00
Balance refunded by NASD Dispute Resolution, Inc.	= \$	584.00

All balances are due to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

George H. Zinn, Jr., Esq. - Public Arbitrator, Presiding Chair
Stephen P. Ormond, Esq. - Public Arbitrator
Gregory M. Gendron - Non-Public Arbitrator

Concurring Arbitrators:

/s/ George H. Zinn, Jr., Esq.
George H. Zinn, Jr., Esq.
Public Arbitrator, Presiding Chair

01/16/02
Signature Date

/s/ Stephen P. Ormond, Esq.
Stephen P. Ormond, Esq.
Public Arbitrator

01/16/02
Signature Date

/s/ Gregory M. Gendron
Gregory M. Gendron
Non-Public Arbitrator

01/14/02
Signature Date

01/16/02
Date of Service (For NASD office use only)

NASD Dispute Resolution, Inc.
 Attention: Mr. Gendron
 1700 K Street, N.W.
 Washington, D.C. 20005

Open-Claim and Counterclaim Filing Fee	= \$	250.00
Total Fees	= \$	250.00
Less payments	= \$	0.00
Balance refunded by NASD Dispute Resolution, Inc.	= \$	250.00

All balances are due to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

George H. Zinn, Jr., Esq. - Public Arbitrator, Presiding Chair
 Captain P. Gendron, Esq. - Public Arbitrator
 Gregory H. Gendron - Non-Public Arbitrator

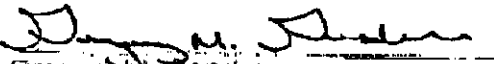
Consenting Arbitrators:

George H. Zinn, Jr., Esq.
 Public Arbitrator, Presiding Chair

Signature Date

Captain P. Gendron, Esq.
 Public Arbitrator

Signature Date


 Gregory H. Gendron
 Non-Public Arbitrator

1/14/02
 Signature Date

Date of Service (For NASD office use only)

NASD Dispute Resolution, Inc.
Arbitration No. 00-00801
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Cross-Claim and Counterclaim Filing Fee	= \$	250.00
Total Fees	= \$	250.00
Less payments	= \$	834.00
Balance refunded by NASD Dispute Resolution, Inc.	= \$	584.00

All balances are due to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

George H. Zinn, Jr., Esq. - Public Arbitrator, Presiding Chair
Stephen P. Ormond, Esq. - Public Arbitrator
Gregory M. Gendron - Non-Public Arbitrator

Concurring Arbitrators:

George H. Zinn, Jr., Esq.
Public Arbitrator, Presiding Chair


Stephen P. Ormond, Esq.
Public Arbitrator

Signature Date

1/16/02
Signature Date

Gregory M. Gendron
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

NASD Dispute Resolution, Inc.
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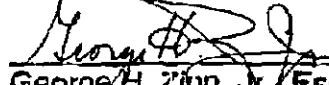
Cross-Claim and Counterclaim Filing Fee	= \$ 250.00
Total Fees	= \$ 250.00
Less payments	= \$ 834.00
Balance refunded by NASD Dispute Resolution, Inc.	= \$ 584.00

All balances are due to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

George H. Zinn, Jr., Esq. - Public Arbitrator, Presiding Chair
Stephen P. Ormond, Esq. - Public Arbitrator
Gregory M. Gendron - Non-Public Arbitrator

Concurring Arbitrators:



George H. Zinn, Jr., Esq.
Public Arbitrator, Presiding Chair

16 January 2002

Signature Date

Stephen P. Ormond, Esq.
Public Arbitrator

Signature Date

Gregory M. Gendron
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)