

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between

Name of Claimant

Alfred A. Gilbert

Case No. 00-03201

Name of Respondent

Alex Osterneck

Hearing Site: Philadelphia, PA

REPRESENTATION OF PARTIES

Claimant, Alfred A. Gilbert ("Gilbert"), hereinafter referred to as "Claimant" represented himself at the hearing.

Respondent, Alexander Osterneck ("Osterneck"), hereinafter referred to as "Respondent" did not appear at the hearing.

CASE INFORMATION

Statement of Claim filed on: July 27, 2000

Claimant signed the Uniform Submission Agreement: August 30, 2000

Respondent did not file a Statement of Answer

Respondent did not sign the Uniform Submission Agreement

CASE SUMMARY

Claimant asserted the following causes of action: Claimant initially brought a claim against Respondent and others in Federal Court alleging losses sustained due to Respondent's violations of Federal and State securities laws, the Pennsylvania Consumer Protection statute, and common law fraud and breach of fiduciary duty. Shortly before an evidentiary hearing in court, the parties entered into a settlement agreement, which the Federal Court accepted. Respondent agreed to execute a judgment note in the amount of \$100,000.00 with 6% interest, payable monthly, with each payment to be at least \$1,250.00. Respondent was to pay \$50,000 within one year, in exchange for the cancellation of the balance of the judgment note. The Court thereupon dismissed Claimant's case. Claimant alleged herein that Respondent refused to sign the settlement documents once the case was dismissed, and the Court vacated the settlement agreement.

Claimant's case was stayed in court pending this arbitration.
Respondent did not file a Statement of Answer.

RELIEF REQUESTED

Claimant requested:

Compensatory Damages	\$100,000
Interest	amount unspecified

OTHER ISSUES CONSIDERED AND DECIDED

Respondent did not file with NASD Dispute Resolution, Inc. a properly executed submission to arbitration but is required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code") and is bound by the determination of the arbitration panel (the "Panel") on all issues submitted.

Respondent did not appear at the first scheduled Initial Prehearing Conference Call. Respondent had selected the date of November 30, 2001 to hold the Initial Prehearing Conference Call for which he did not appear. The Panel decided to conduct the conference call and issued a Scheduling Order based thereon. Mail has been sent to Respondent at the address listed on Central Registration Depository; attached as Exhibit A is proof that correspondence had been sent to Respondent at this address via certified mail, and has been received at that address.

Upon review of the file and the representations made by behalf of the Claimant, the undersigned arbitrators determined that Respondent has been properly served with the Statement of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without said Respondent present, in accordance with the Code.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent is liable to and shall pay to Claimant the sum of \$100,000, plus 6% interest on that amount, accruing from November 19, 1999 through the date the Award is paid in full;
2. Respondent shall pay Claimant's non-refundable filing fee, as specified below;
3. The parties shall each bear all other respective costs and expenses, except as Fees are specifically addressed below; and,

4. Any request for relief not specifically addressed herein is denied in its entirety.

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 = \$ 225

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 at the time of the events giving rise to the dispute. In this matter, the member firm is the Respondent's former firm.

Member surcharge = \$ 1,000

Pre-hearing process fee = \$ 600

Hearing process fee = \$ 1,500

Forum Fees and Assessments

The panel has the authority to assess forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with Panel x \$ 750 = \$ 750

Pre-hearing conference: November 30, 2001 1 session

One (1) Hearing session x \$ 750 = \$ 750

Hearing Date: January 28, 2002 1 session

Total Forum Fees = \$1,500

The panel has assessed \$750 of the forum fees to Claimant.

The panel has assessed \$750 of the forum fees to Respondent.

Fee Summary

Claimant is assessed and shall pay:

Forum Fees = \$ 750

Total Fees = \$ 750

Less payments = \$ 975

Refund from NASD Dispute Resolution, Inc.	= \$ 225
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Respondent Osterneck is assessed and shall pay:

Filing Fee	= \$ 225
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Forum Fees	= \$ 750
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Total Fees	= \$ 975
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Less payments	= \$ 00
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Balance Due NASD Dispute Resolution, Inc.	= \$ 975
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Bryn Mawr Investment Group, Inc. is assessed and shall pay:

Member Fees	= \$ 3,100
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Total Fees	= \$ 3,100
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Less payments	= \$ 1,000
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Balance Due NASD Dispute Resolution, Inc.	= \$ 2,100
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All balances are due to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

Roslyn G. Pollack, Esq.	-	Public Arbitrator, Presiding Chairperson
Sheldon Seligsohn, Esq.	-	Public Arbitrator, Panelist
Stephen T. Mayhew	-	Non-Public Arbitrator, Panelist

Exhibit "A"

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1.

Alfred A. Gilbert
1301 15th Street
Philadelphia, PA 19101

2. Article Number (Copy from service label)

178 709 571

PS Form 3811, July 1999

Domestic Return Receipt

102595-00-M-0952

COMPLETE THIS SECTION ON DELIVERY

- A. Received by (Please Print Clearly) W. Givens B. Date of Delivery 9-5-01
- C. Signature X W. Givens ☐ Agent ☐ Addressee
- D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Alexander Osterneck
292 South County Road
Palm Beach, FL 33480

171

2. Article Number (Copy from service label)

178 709 572

PS Form 3811, July 1999

Domestic Return Receipt

102595-00-M-0952

COMPLETE THIS SECTION ON DELIVERY

- A. Received by (Please Print Clearly) HARPER B. Date of Delivery 9/5/01
- C. Signature X W. Givens ☐ Agent ☐ Addressee
- D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

CCOC
UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

00-3201 Gilbert

• Sender: Please print your name, address, and ZIP+4 in this box •

RESPOND TO THE FOLLOWING ADDRESS
NASD REGULATION, INC.-DISPUTE RESOLUTION
1735 K STREET, N.W., WASHINGTON, D.C. 20006
FAX NUMBER: (202) 725-6962



CCOC
UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

00-3201 Gilbert

• Sender: Please print your name, address, and ZIP+4 in this box •

RESPOND TO THE FOLLOWING ADDRESS
NASD REGULATION, INC.-DISPUTE RESOLUTION
1735 K STREET, N.W., WASHINGTON, D.C. 20006
FAX NUMBER: (202) 725-6962

Concurring Arbitrators' Signatures

Roslyn G. Pollack

Roslyn G. Pollack, Esq.

Public Arbitrator, Presiding Chairperson

Signature Date

Sheldon Seligsohn, Esq.
Public Arbitrator, Panelist.

Signature Date

Stephen T. Mayhew
Non-Public Arbitrator, Panelist

Signature Date

3/8/02
Date of Service (For NASD-Dispute Resolution office use only)

Concurring Arbitrators' Signatures

Roslyn G. Pollack, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Sheldon Seligsohn, Esq.
Public Arbitrator, Panelist

2/14/02
Signature Date

Stephen T. Mayhew
Non-Public Arbitrator, Panelist

3/6/02
Signature Date

3/8/02
Date of Service (For NASD-Dispute Resolution office use only)