

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Mahesh Shah, (Claimant) vs. Josephthal & Co., Inc. and Mitchell Van Doff, (Respondents)

Case Number: 00-03866

Hearing Site: New York, New York

REPRESENTATION OF PARTIES

Claimant, Mahesh Shah, hereinafter referred to as "Claimant": Joseph Sadow, Esq., Attorney At Law, New York, NY.

Respondents, Josephthal & Co., Inc. ("Josephthal") and Mitchell Van Doff ("Van Doff"), hereinafter collectively referred to as "Respondents": John E. Bersin, Esq., Associate General Counsel, Josephthal & Co., Inc., New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: September 5, 2000.

Claimant signed the Uniform Submission Agreement: July 19, 2000.

Statement of Answer filed by Respondents on or about: October 30, 2000.

Josephthal signed the Uniform Submission Agreement: November 6, 2000.

Van Doff did not sign a Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: unauthorized trading; lack of suitability; excessive trading or churning; total disregard for the welfare of Claimant; speculative trading; and improper supervision. Claimant's claim involved a variety of stocks and warrants.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses: the Statement of Claim fails to state a basis or claim upon which relief may be granted; at all material times, Claimant was advised of and assumed the risks of market fluctuation; the doctrine of laches bars this claim; the Statement of Claim fails to plead fraud with the requisite particularity; all claims asserted

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against Respondents must be barred because Claimant willfully and intentionally ratified the trades in the account by accepting the confirmations and statements without protest which reflected the allegedly unauthorized trades; any losses in Claimant's account were the result of unforeseen market fluctuations and were within the risks assumed; and Claimant has failed to compute properly the alleged damages and, accordingly, seeks a windfall.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$160,000.00, punitive damages in the amount of \$40,000.00, forum costs, and attorneys' fees.

Respondents requested an Award:

- a. Denying all claims in the Statement of Claim;
- b. Assessing the costs and expenses of this proceeding against Claimant; and
- c. All such other and further relief as the Panel may deem just and necessary.

OTHER ISSUES CONSIDERED AND DECIDED

Van Doff 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 and, having answered the claim, appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

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.

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. Claimant's claims are hereby dismissed in their entirety.
2. All other requests for relief are hereby denied.

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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 = \$ 300.00

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 at the time of the events giving rise to the dispute. In this matter, Josephthal & Co., Inc. is a party.

Member surcharge = \$1,500.00

Pre-hearing process fee = \$ 600.00

Hearing process fee = \$2,500.00

Forum Fees and Assessments

The Panel assesses 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 \$1,125.00 = \$1,125.00

Pre-hearing conference: May 16, 2001 1 session

Two (2) Hearing sessions x \$1,125.00 = \$2,250.00

Hearing Date: October 16, 2001 2 sessions

Total Forum Fees = \$3,375.00

1. The Panel has assessed \$1,687.50 of the forum fees against Claimant.
2. The Panel has assessed \$1,687.50 of the forum fees jointly and severally against Respondents.

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Fee Summary

1. Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	= <u>\$1,687.50</u>
Total Fees	= \$1,987.50
<u>Less payments</u>	= <u>\$1,450.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 537.50

2. Josephthal be and hereby is solely liable for:

<u>Member Fees</u>	= <u>\$4,600.00</u>
Total Fees	= \$4,600.00
<u>Less payments</u>	= <u>\$2,100.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$2,500.00

3. Respondents be and hereby are jointly and severally liable for:

<u>Forum Fees</u>	= <u>\$1,687.50</u>
Total Fees	= \$1,687.50
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$1,687.50

All balances are due and payable to NASD Dispute Resolution, Inc.

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ARBITRATION PANEL

Richard H. Sommer	-	Public Arbitrator, Presiding Chair
Felix Wroblewski	-	Public Arbitrator
Todd G. Everts	-	Industry Arbitrator

Concurring Arbitrators' Signatures


I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

Richard H. Sommer
Public Arbitrator, Presiding Chair

Signature Date

Felix Wroblewski
Public Arbitrator

Signature Date


Todd G. Everts
Industry Arbitrator


Signature Date

November 8, 2001
Date of Service (For NASD office use only)

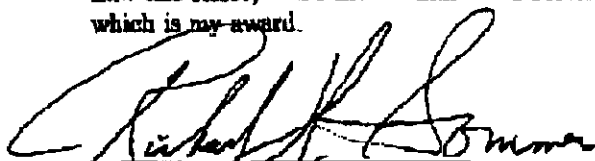
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ARBITRATION PANEL

Richard H. Sommer	-	Public Arbitrator, Presiding Chair
Felix Wroblewski	-	Public Arbitrator
Todd G. Everts	-	Industry Arbitrator

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.



Richard H. Sommer
Public Arbitrator, Presiding Chair

November 1, 2001
Signature Date

Felix Wroblewski
Public Arbitrator

Signature Date

Todd G. Everts
Industry Arbitrator

Signature Date

November 8, 2001
Date of Service (For NASD office use only)