

NASD DISPUTE RESOLUTION AWARD
NASD DISPUTE RESOLUTION, INC.

CASE: 00-04583

Laurence Pilgeram, Ph.D., Claimant vs. Robert K. Malkin, Respondent.

ATTORNEYS:

Claimant, Laurence Pilgeram, Ph.D., ("Claimant"), appeared Pro Se, Goleta, CA.

For Respondent, Robert Keith Malkin, ("Respondent"), appeared James M. Fraser, Esq., of the Law Offices of Patrick E. Whalen, South Coast Metro, CA.

DATE FILED: October 16, 2000

CASE SUMMARY: Claimant alleged that Respondent knowingly made material misrepresentations and fraudulent statements, omitted material information and breached his fiduciary duty to Claimant. Claimant maintained that he was induced by Respondent to purchased Molten Metal Bonds that were obviously defaulting.

Claim Data

Claim: \$24,250.00
Interest: \$4,921.35
(from 9/12/97 to 2/01/00)
Punitive: unspecified
Filing Fees: unspecified
Other: unspecified

Award Data

Award: \$22,257.25
Interest: at the prevailing legal rate
from 8/6/99 to payment of award.
Punitive: \$.00
Filing Fees: \$425.00
Other: denied

AWARD: The undersigned arbitrator has decided and determined in full and final resolution of the issues submitted for determination as follows: 1) Claimant is entitled to be made whole for the losses sustained as a result of his purchase of the Molten Metal Bonds; accordingly, Respondent is liable and shall pay Claimant the sum of \$22,257.25 as compensatory damages, plus interest at the prevailing legal rate from 8/6/99 to payment of the award. 2) All requests for punitive damages are denied. 3) All other requests for relief are hereby denied. 4) The \$425.00 filing fee previously deposited with NASD Dispute Resolution, Inc. by the Claimant shall be retained by NASD Dispute Resolution, Inc. 5) Respondent is liable and shall pay Claimant \$425.00 as reimbursement of the filing fee.

OTHER FEES: Pursuant to Rule 10333 of the Code, Cantella & Co., Inc. has paid to NASD Dispute Resolution, Inc. the \$400.00 Member Surcharge previously invoiced.

ARBITRATOR'S REPORT

On about October 4, 2001, the Arbitrator ruled on Respondent's motion, alternatively, to compel production of documents or dismiss the Claim (the "Discovery Motion"). Thereafter, additional documents were submitted by the parties to the NASD and were forwarded to the Arbitrator. These included the following: i) NASD letter dated October 25, 2001 enclosing Respondent's letter dated October 12, 2001 regarding the Ruling, and Claimant's letter dated October 17, 2001 responding to the Ruling; ii) NASD letter dated November 13, 2001 enclosing Respondent's letter dated October 23, 2001, with attachments, and Claimant's letter dated October 26, 2001; and iii) NASD letter dated December 10, 2001 forwarding Claimant's letter dated December 7, 2001.

Upon due consideration, the Arbitrator has determined that Respondent's October 12, 2001 letter did not provide grounds for reconsideration of the Discovery Ruling. As to Requests Nos. 3 and 4, it is undisputed that Claimant is educated and had a trading history with Respondent prior to the present dispute. However, as previously found, the requested documents would not materially contribute to the resolution of the claims of misrepresentation, fraud and breach of fiduciary duty set forth in the claim. Contrary to Respondent's contention, Request Nos. 11 and 12 were addressed in the Ruling; further, Respondent's statement that he did not have responsive records is undisputed. The documents Respondent submitted after the Discovery Ruling were not considered, as they appear to have been submitted in furtherance of the arguments raised by the Discovery Motion which have been rejected.

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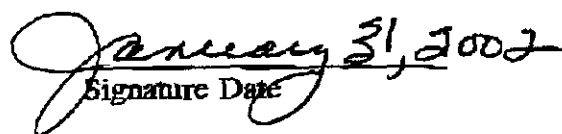
Linda Auerbach Allderdice, Esq.

Sole Public Arbitrator

AFFIRMATION

I, Linda Auerbach Allderdice, Esq., do hereby affirm, upon my oath as arbitrator that I am the individual described herein who executed this instrument, which is my oath and award.


Linda Auerbach Allderdice, Esq.


Signature Date

February 1, 2002
Date of Service (For NASD-DR office use only)