

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Rene Panzer, Nicholas Panzer, and Sandrine Panzer, (Claimants) vs. Brian A. Fried, (Respondent)

Case Number: 00-05446

Hearing Site: New York, New York

REPRESENTATION OF PARTIES

Claimants, Rene Panzer ("R. Panzer"), Nicholas Panzer ("Panzer"), and Sandrine Panzer ("S. Panzer"), hereinafter collectively referred to as "Claimants": Samuel Panzer, Esq., a sole practitioner, New York, NY.

Respondent, Brian A. Fried, hereinafter referred to as "Respondent": Deborah A. Kelly, Esq., Law Offices of Joseph D'Elia, Huntington, NY.

CASE INFORMATION

Statement of Claim filed on or about: December 8, 2000.

R. Panzer signed the Uniform Submission Agreement: November 16, 2000.

N. Panzer signed the Uniform Submission Agreement: November 16, 2000.

S. Panzer signed the Uniform Submission Agreement: November 16, 2000.

Statement of Answer filed by Respondent on or about: February 6, 2001.

Respondent signed the Uniform Submission Agreement: February 6, 2001.

CASE SUMMARY

Claimants asserted the following causes of action: breach of fiduciary duty; unauthorized trading; churning; omission of facts; and excessive commissions, margin interest, and income loss in account. Claimant's claim involved unspecified stocks and mutual funds.

Unless specifically admitted in his Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses: all relevant acts, omissions, investment decisions, and activities were taken by the Claimants knowingly and intentionally with full knowledge of the risks and opportunity costs of such investments; if Claimants suffered any loss by virtue of the allegations contained in their Statement of Claim, to the extent Claimants were not solely responsible, such loss was as the result of causes, such as natural market forces and fluctuations; Claimants, by conscious and deliberate decision, solely in order to maximize the return on their investment, assumed the risk of any and all losses referred to or alleged in the Statement of Claim; Respondent executed Claimants' instructions,

to the best of his ability, and performed his obligations as a reasonable and prudent securities representative should, and further acted in accordance with the procedures and standards generally accepted and followed in the securities business; at all times material herein, and in all matters relevant to the allegations contained in the Statement of Claim, Respondent acted in good faith; and Claimants did not reasonably rely on any statements or omissions attributable to Respondent.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$627,883.00.

Respondent requested that the Panel dismiss the Statement of Claim in its entirety, with prejudice, and order that Claimants be required to pay all filing and forum fees.

OTHER ISSUES CONSIDERED AND DECIDED

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

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

| | |
|--------------------------|-------------|
| Initial claim filing fee | = \$ 375.00 |
|--------------------------|-------------|

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, Glenn Michael Financial, Inc. is Respondent's firm.

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

Adjournment Fees

Adjournments requested during these proceedings:

| | |
|---|--------------|
| February 5 & 6, 2002, adjournment by Respondent | = WAIVED |
| April 9 & 10, 2002, adjournment by Claimants | = WAIVED |
| June 10 & 11, 2002, adjournment by Claimants | = WAIVED |
| October 23 & 24, 2002, adjournment by Claimants | = \$1,500.00 |

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:

| | |
|--|-------------------|
| Two (2) Pre-hearing sessions with Panel x \$1,200.00 | = \$2,400.00 |
| Pre-hearing conferences: May 30, 2001 | 1 session |
| October 22, 2002 | 1 session |
| Two (2) Hearing sessions x \$1,200.00 | = \$2,400.00 |
| <u>Hearing Date:</u> December 16, 2002 | <u>2 sessions</u> |
| Total Forum Fees | = \$4,800.00 |

1. The Panel has assessed \$2,400.00 of the forum fees jointly and severally against Claimants.
2. The Panel has assessed \$2,400.00 of the forum fees against Respondent.

Fee Summary

1. Claimants are jointly and severally liable for:

| | |
|-------------------------------------|---------------------|
| Initial Filing Fee | = \$ 375.00 |
| Adjournment Fee | = \$1,500.00 |
| <u>Forum Fees</u> | <u>= \$2,400.00</u> |
| Total Fees | = \$4,275.00 |
| <u>Less payments</u> | <u>= \$4,275.00</u> |
| Balance Due NASD Dispute Resolution | = \$ 0.00 |

2. Respondent is solely liable for:

| | |
|-------------------------------------|---------------------|
| <u>Forum Fees</u> | <u>= \$2,400.00</u> |
| Total Fees | = \$2,400.00 |
| <u>Less payments</u> | <u>= \$ 0.00</u> |
| Balance Due NASD Dispute Resolution | = \$2,400.00 |

3. Glenn Michael Financial, Inc. is solely liable for:

| | |
|-------------------------------------|---------------------|
| <u>Member Fees</u> | <u>= \$6,100.00</u> |
| Total Fees | = \$6,100.00 |
| <u>Less payments</u> | <u>= \$5,237.50</u> |
| Balance Due NASD Dispute Resolution | = \$ 862.50 |

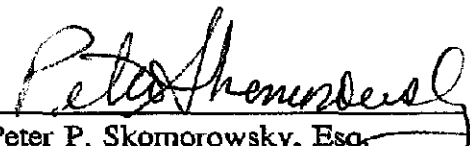
All balances are payable to NASD Dispute Resolution, and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

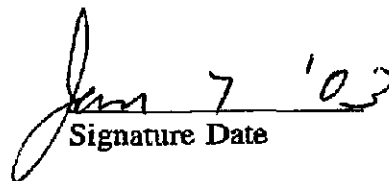
| | | |
|----------------------------|---|------------------------------------|
| Peter P. Skomorowsky, Esq. | - | Public Arbitrator, Presiding Chair |
| Marvin H. Ginsky, Esq. | - | Public Arbitrator |
| Anthony J. Raimondi, Esq. | - | Non-Public Arbitrator |

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.



Peter P. Skomorowsky, Esq.
Public Arbitrator, Presiding Chair



Signature Date

Marvin H. Ginsky, Esq.
Public Arbitrator

Signature Date

Anthony J. Raimondi, Esq.
Non-Public Arbitrator

Signature Date

January 17, 2003
Date of Service (For NASD Dispute Resolution use only)

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Signature Date

Marvin H. Ginsky, Esq.
Public Arbitrator

Signature Date



Anthony J. Raimondi, Esq.
Non-Public Arbitrator

1-7-03
Signature Date

January 17, 2003

Date of Service (For NASD Dispute Resolution use only)