

AWARD
NASD Dispute Resolution, Inc.

n the Matter of the Arbitration Between

David G. Murphy IRA

and

00-05673
Southfield, Michigan

Josephthal & Co., Inc., and
Randall E. Lindberg

REPRESENTATION OF PARTIES

David G. Murphy IRA ("Claimant") was represented by D. Michael Kratchman Esq., Southfield, Michigan.

Josephthal & Co., Inc. ("Josephthal") and Randall E. Lindberg ("Lindberg"), hereinafter collectively referred to as "Respondents" were represented by John Bersin, Esq., Josephthal & Co., Inc., New York, New York.

CASE INFORMATION

The Statement of Claim was filed on or about December 14, 2000. Submission Agreement of Claimant David G. Murphy IRA was signed on December 3, 2000, by David G. Murphy, D.D.S.

Statement of Answer and Motion to Dismiss was filed by Respondents on or about February 20, 2001.

CASE SUMMARY

Claimant asserted the following causes of action: Violation of NASD Rules of Fair Practice; Fraud; Breach of fiduciary duty; and Unsuitability. The causes of action relate to Claimant's investment in First Pacific.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: the Statement of Claim fails to state a basis of claim upon which relief may be granted; Claimant was advised of and assumed the risks of market fluctuation, and as such Claimant must be barred and estopped from recovery; The doctrine of laches bars the claim; and the Statement of Claim fails to plead fraud with the requisite particularity.

RELIEF REQUESTED

Claimant requested an award in the amount in excess of \$400,000.00 as out-of-pocket losses, plus interest at 12%, costs, actual attorney fees, and exemplary and punitive damages.

Respondents requested that all claims in the Statement of Claim be denied in their entirety, expungement, costs and all such other and further relief as the Panel may deem just and necessary.

OTHER ISSUES CONSIDERED & DECIDED

Respondents Josephthal & Co., Inc. and Randall E. Lindberg did not file with the NASD Dispute Resolution, Inc. properly executed submissions to arbitration but are required to submit to arbitration pursuant to Rule 10301 of the NASD Code of Arbitration Procedure (the "Code") and having answered the claim and appeared and testified at the hearing are bound by the determination of the arbitration panel on all issues submitted.

The Panel denied Respondents' Motion to Dismiss.

Each side filed a post-hearing submission on or about November 30, 2000.

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. 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 and the post-hearing submissions, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

- 1.) Claimant's Statement of Claim is denied in its entirety;
- 2.) The panel recommends the expungement of all reference to the above captioned arbitration from Respondent Randall E. Lindberg's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Lindberg must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

- 3.) That other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter;
- 4.) That any relief not specifically enumerated, including punitive and exemplary damages, is hereby denied with prejudice.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

VASD Dispute Resolution, Inc. will retain 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 persons at the time of the events giving rise to the dispute. In this matter, the member firm is Josephthal & Co., Inc.

Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$2,500.00

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:

One (1) Pre-hearing session with Panel x \$1,125.00	= \$1,125.00
Pre-hearing conference: June 21, 2001 1 session	
Four (4) Hearing sessions x \$1,125.00	= \$4,500.00
Hearing Dates: November 14, 2001 2 sessions	
November 15, 2001 2 sessions	
Total Forum Fees	= \$5,625.00

The Arbitration Panel has assessed \$2,812.50 of the forum fees to David G. Murphy IRA.

The Arbitration Panel has assessed \$2,812.50 of the forum fees to Josephthal & Co., Inc.

Fee Summary

Claimant, David G. Murphy IRA, is liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 2,812.50
Total Fees	= \$ 3,112.50
Less payments	= \$ 1,425.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 1,687.50

Respondent, Josephthal & Co., Inc., is liable for:

Member Fees	= \$ 4,600.00
Forum Fees	= \$ 2,812.50
Total Fees	= \$ 7,412.50
Less payments	= \$ 2,100.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 5,312.50

All balances are due to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

Erwin B. Ellmann, Esq. - Public Arbitrator, Presiding Chair
James Richter - Public Arbitrator
Mauricio Kohn - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Erwin B. Ellmann, Esq.
Erwin B. Ellmann, Esq.
Public Arbitrator, Presiding Chair

01/07/02
Signature Date

/s/ James Richter
James Richter
Public Arbitrator

01/08/02
Signature Date

/s/ Mauricio Kohn
Mauricio Kohn
Non-Public Arbitrator

01/09/02
Signature Date

01/09/02
Date of Service (For NASD office use only)

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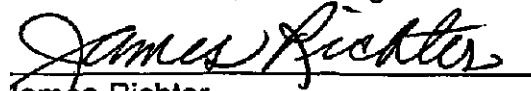
Erwin B. Ellmann, Esq. - Public Arbitrator, Presiding Chair

James Richter - Public Arbitrator

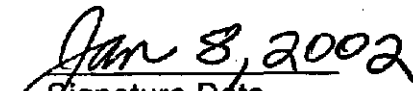
Maruicio Kohn - Non-Public Arbitrator

Concurring Arbitrators:

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Public Arbitrator, Presiding Chair


James Richter
Public Arbitrator

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James Richter - Public Arbitrator
Maruicio Kohn - Non-Public Arbitrator

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Erwin B. Ellmann, Esq.
Public Arbitrator, Presiding Chair

1/7/02
Signature Date

James Richter
James Richter
Public Arbitrator

Signature Date

Maruicio Kohn
Maruicio Kohn
Non-Public Arbitrator

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Maruicio Kohn - Non-Public Arbitrator

Concurring Arbitrators:

Erwin B. Ellmann, Esq.
Public Arbitrator, Presiding Chair

Signature Date

James Richter
Public Arbitrator

Signature Date



Maruicio Kohn
Non-Public Arbitrator

1/9/02

Signature Date

Date of Service (For NASD office use only)