

NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of
Securities Dealers, Inc.
Suite 1680
Three First National Pla
Chicago, IL 60602
(312) 899-4440

In the Matter of the Arbitration BetweenName of Claimant(s)

Henry D. Espinosa

88-02947

Name of Respondent(s)

Brad Kanode and
Fitzgerald, Talman, Inc.

CASE SUMMARY

Henry D. Espinosa ("Claimant") alleged that Brad Kanode ("Respondent") a registered representative of Fitzgerald-Talman, Inc. misrepresented and/or failed to explain the risks of two penny stocks which the Respondent recommended to Claimant. The Claimant also alleged that the penny stocks were unsuitable for the Claimant.

Respondent denied the claims of the Claimant and further alleged that Marshall Davis, Inc. was responsible for the Claimant's losses by engaging in fraudulent conduct with respect to the two penny stocks.

RELIEF REQUESTED

The Claimant requested actual damages in the amount of \$16,100.00 plus attorneys' fees and costs. Respondent requested that the claim of the Claimant be dismissed.

OTHER ISSUES

1. The NASD was notified by counsel for Fitzgerald Talman, Inc. ("Fitzgerald") that Fitzgerald filed for bankruptcy, and therefore Fitzgerald was dismissed from the case without prejudice to the Claimant.

AWARD

On September 11, 1990 in Albuquerque, New Mexico during a hearing lasting a total of two sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on August 4, 1988 by Claimant Henry D. Espinosa.

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The Respondent stated on the record that he was submitting this controversy to NASD arbitration in accordance with its rules, regulations, and

The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has decided in full and final resolution of the issues submitted for determination as follows:

1. All claims asserted by the Claimant against the Respondent are hereby dismissed.

2. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall refund the hearing session deposit in the amount of \$ 400.00 previously deposited with the NASD by the Claimant. The Respondent shall pay to the NASD \$800.00 as forum fees.

By the Panel

Dated: September 11, 1990 /S/ George F. Bingham, Esq.

Dated: September 11, 1990 /S/ Alison K. Schuler, Esq.

Dated: September 11, 1990 /S/ Mike Edward Minovich