

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In The Matter of The Arbitration Between

Robert James Raphael

Claimant

vs.

W.J. Gallagher & Co.
Gary Miller

Respondents

Award

NASD No. 89-01153

SUMMARY OF ISSUES

This case was filed on April 17, 1989. Claimant alleged lack of suitability, unauthorized trading and excessive trading with respect to options purchases in his account.

Respondents denied the claimant's allegations and asserted that he was an experienced businessman, all trades were approved by him and he was aware of the risks involved.

DAMAGES AND RELIEF REQUESTED

Claimant requested the following:

1. Compensatory damages of \$23,000.00;
2. Interest at the legal rate;
3. Attorney's fees;
4. Expert witness' fees and other special damages;
5. Punitive damages;
6. Costs of arbitration.

DAMAGES AND RELIEF AWARDED

On March 14, 1990 in Los Angeles, California, the undersigned arbitrators heard the controversy in two sessions between the parties as set forth in submissions to arbitration signed by Claimant on February 23, 1989 and by Respondent W.J. Gallagher on May 23, 1989. Respondent Gary Miller did not file a submission agreement but is subject to the jurisdiction of the National Association of Securities Dealers, Inc. (NASD) pursuant to NASD Code of Arbitration Procedure Sections One and Eight. The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has determined in full and final resolution of the issues submitted for determination as follows:

1. Respondent are jointly and severally liable for and shall pay to claimant the sum of \$10,000.00 assessed as follows:

- A) Against respondent Miller, \$7,500.00.
- B) Against respondent W.J. Gallagher, \$2,500.00.

2. The claim for punitive damages are dismissed.

3. The parties shall each bear their respective costs including attorneys' fees.

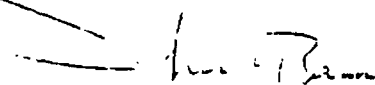
4. In accordance with Section 43 of the NASD Code of Arbitration Procedure, the NASD shall retain the \$400.00 filing fee previously deposited by the Claimant as an assessment of forum fees by the arbitrator.

ARBITRATORS CONCURRING

DATE SERVED: 04/02/90

James F. Buckley

Robert Arkush, Esq.



Dwight C. Baum

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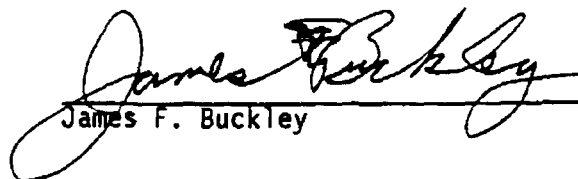
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