

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Name of Claimant

Richard Fitzsimmons

91-00511

Name of Respondents

John B. Freeman
Arden Brown

REPRESENTATION

For Claimant: Claimant appeared pro se.

For Respondent Arden Brown: Jerry Selvers, Esq. of the law firm of
Sommenblick, Parker & Selvers.

The Respondent John B. Freeman did not attend the hearing.

CASE INFORMATION

Statement of Claim filed on: February 15, 1991.

Claimant's Submission Agreement signed on: February 4, 1991.

Statement of Answer filed by Respondent Arden Brown on: May 31, 1991.

Respondent Arden Brown's Submission Agreement signed on: May 24, 1991.

Respondent John B. Freeman did not execute a Submission Agreement nor submit
a Statement of Answer.

HEARING INFORMATION

Hearing Date/Sessions: December 9, 1991, 2 Sessions.

Hearing Location: NASD offices located in New York City, NY.

CASE SUMMARY

Claimant alleged that Respondent John B. Freeman made misrepresentations to him concerning his purchase of shares of stock; failed to follow his instructions to sell when instructed to do so and made unauthorized purchases of stock. Claimant further alleged Respondent Arden R. Brown instructed John B. Freeman to take action to manipulate the prices of various stocks and generate commissions. In addition, Claimant opposed Respondent Arden Brown's Motions to Dismiss based on Statute of Limitations and lack of jurisdiction.

Respondent Arden Brown maintained that the subject of the Statement of Claim involves shares bought and sold after he resigned from Monmouth Investments, Inc. and further maintained that any losses incurred were not his responsibility, but rather were the responsibility of others including the Claimant. Respondent Arden Brown further maintained the Claimant's claims are barred by the applicable Statute of Limitations and that the NASD has no jurisdiction over him as he has not been a member for a number of years.

RELIEF REQUESTED

Claimant requested damages of \$81,892.12.

Respondent Arden Brown requested dismissal of all claims against him.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. In accordance with Section 25 of the Code of Arbitration Procedure, the Respondent John B. Freeman was served with the Statement of Claim and given an opportunity to respond which he failed to do.
2. In accordance with Section 21 and Section 25 of the Code of Arbitration Procedure, the Respondent John B. Freeman was given due notice of the hearing procedure by regular and certified mail and failed to appear at the hearing.
3. In accordance with Section 29 of the Code of Arbitration Procedure the arbitration panel determined in light of the foregoing information to proceed with the hearing as scheduled.

4. All claims by the Claimant against Respondent Arden Brown be and hereby are dismissed in all respects.
5. The Respondent Arden Brown's Motion to Dismiss based on the Statute of Limitations is denied.
6. The Respondent Arden Brown's Motion to Dismiss based on lack of jurisdiction is denied.
7. The Respondent Arden Brown's Motion to Dismiss the claim on the merits is granted.
8. The Respondent John B. Freeman be and hereby is liable and shall pay to the Claimant the sum of \$43,418.00, inclusive of interest.
8. The parties shall each bear their respective costs, including attorneys' fees.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed.

2 sessions X \$500.00 = \$1,000.00 less hearing session
deposit of \$500.00 = net \$500.00 due.

The Respondent Arden Brown be and hereby is liable and shall pay to the Claimant the sum of \$167.00 to reimburse him for the filing fee and shall pay to the NASD the sum of \$167.00 to represent forum fees. In addition, the Respondent John B. Freeman be and hereby is liable and shall pay to the NASD the sum of \$333.00 to represent forum fees.

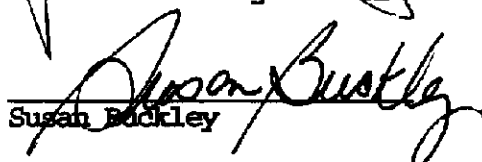
CONCURRING ARBITRATORS' SIGNATURE


Murray I. Sommer, Esq.

Public Arbitrator


Jerome Greenberg

Public Arbitrator


Susan Buckley

Industry Arbitrator

Executed on:

Date of Decision: February 12, 1992

Date of Decision: February 12, 1992