

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

James W. Teunas

No. 91-00954

Name of Respondents

ISFA Corporation d/b/a Invest
Mark Jensen

REPRESENTATION OF PARTIES

For Claimant: Wilbur W. Warren, Esq. of Warren Law Office S.C.

For Respondents: Eugene B. Harper, Esq., Staff Attorney of ISFA Corporation d/b/a Invest.

CASE INFORMATION

Statement of Claim filed: March 25, 1991.

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

Joint Statement of Answer filed by Respondents ISFA Corporation d/b/a Invest and Mark Jensen: May 30, 1991.

Respondent ISFA Corporation's d/b/a Invest Submission Agreement signed on: May 30, 1991.

Respondent Mark Jensen's Submission Agreement signed on: October 16, 1991.

HEARING INFORMATION

Hearing date: February 5, 1992. 1 session.
Hearing Location: Milwaukee, Wisconsin.

CASE SUMMARY

Claimant James W. Teunas ("Claimant") alleged breach of fiduciary duty and unauthorized trading by Respondents ISFA Corporation d/b/a Invest ("Invest") and Mark Jensen ("Jensen"). Claimant's allegations arose out of transactions involving three call options of Philip Morris. Claimant had allegedly ordered Jensen to sell the options at 10 1/8 by September 1, 1989. On or about September 6, 1989, Jensen allegedly disclosed to Claimant that an erroneous sale order had been placed, and that the options had been sold for 11 1/8. Claimant alleged ratification, and also alleged receiving a confirmation of the sale. Claimant next alleged that on September 13, 1989, he was informed that the transaction had been reversed. Claimant's position was that Invest and Jensen's conduct caused Claimant to believe that his options had sold at a price of 11 1/8, and therefore, Claimant did not direct the sale of the options, and realized a loss. Claimant then corresponded with Invest, and received a letter from Caroline J. Welsch, Compliance Manager, admitting erroneous dealing with Claimant's account to the extent of entry of a sell order for the three call options of Philip Morris.

In a joint Statement of Answer, Invest and Jensen denied that any errors in reporting of Claimant's transactions were their fault. In addition, Invest and Jensen denied liability to Claimant because:

1. Claimant was fully advised, knew and understood, and had assumed the risks of the transactions which form the basis of the complaint.
2. Claimant is estopped from recovery by his approval, authorization or ratification of the alleged acts upon which the claim is based.
3. Any losses suffered have not been proximately caused by any unlawful act or conduct on behalf of Invest or Jensen.
4. Claimant has failed to take any action to mitigate or otherwise reduce any claimed losses as set forth in his claim.
5. The alleged damages contained herein cannot be sustained by either the law or the facts.

RELIEF REQUESTED

Claimant requested that the panel award against the respondents the difference of a sale price of the options at 11 1/8 and the eventual sale price of the options at 5/8 (\$3,099.22).

Respondents requested the denial of the Claimant's claim, and the dismissal of his case in its entirety.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this matter may be executed by counterpart copy 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 remains on file with the NASD.

AWARD

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

1. Claimant James W. Teunas' claims against Respondents ISFA Corporation d/b/a Invest and Mark Jensen are hereby denied and dismissed.

FORUM FEES

Pursuant to Section 43 (c) of the NASD Code of Arbitration Procedure, the following forum fees are assessed:

1 hearing session @ \$100.00 per session.

Pursuant to Section 43 (c) of the Code of Arbitration Procedure, the NASD shall retain the nonrefundable filing fee in the amount of \$50.00, and shall retain the hearing session deposit in the amount of \$100.00 previously paid to the NASD by the Claimant.

Dated:

February 5, 1992

/s/Herbert S. Bratt
Herbert S. Bratt
Presiding Chair
Public Arbitrator