



N.A.S.D. AWARD

Arbitration

NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of
Securities Dealers, Inc.
NASD Financial Center
33 Whitehall Street
New York, N.Y. 10004
FAX (212) 858-4389

In the Matter of the Arbitration Between

Name of Claimants

Anthony M. & Josephine A. Orlando

vs.

Case #
91-03131

Name of Respondents

Jesup, Josephthal & Co Inc.
Lawrence Leppo

REPRESENTATION

For Claimants, Anthony M. and Joseph A. Orlando, Edward T. Dangel, III, Esq. and co-counsel Alexander T. Bok, Esq. from the law firm of Dangel & De Benedictis.

For Respondents, Jesup Josephthal & Co., Inc. ("JJC"), Josephthal & Co., Inc. n/k/a JSC Securities, Inc. ("JSC") and Lawrence Leppo ("Leppo"), Sander A. Rikleen, Esq. from the law firm of Widett, Slater & Goldman, P.C.

CASE INFORMATION

Statement of Claim was filed on October 4, 1991.
Claimant's Submission Agreement was signed on July 18, 1991.
Amended Submission Agreement was filed on March 24, 1992.

JJC's Statement of Answer was filed on December 13, 1991.
JJC's Submission Agreement was signed on December 12, 1991.

Leppo's Statement of Answer was filed on December 17, 1991.
Leppo's Submission Agreement was signed on August 6, 1991.

JSC's Statement of Answer was filed on May 26, 1992.
JSC did not execute a Submission Agreement.

HEARING INFORMATION

Hearing Dates/Hearing Sessions: September 22, 1992 - Two sessions
 September 23, 1992 - Two sessions.

Hearing Location: National Association of Securities Dealers, Inc.'s offices located at 260 Franklin Street, Boston, Massachusetts.

CASE SUMMARY

Claimants allege that in March, 1988 they met with Leppo and informed him that their investment objectives were safety of principal, steady income, and that the money invested was their only retirement assets. Claimants allege that they indicated on the account information form that their income was between \$15,000.00 and \$25,000.00.

Claimants state that they opened a joint account, a custodian account for their daughter and an Individual Retirement Account. Claimants also allege that during the period of January 1989 to July 1990, Leppo churned their account and made imprudent investments. Claimants further allege that they did not initiate the purchase of any stocks, yet Leppo indicated that certain stocks purchased were unsolicited. Claimants also state that Leppo recommended that they purchase options which was unsuitable for them. Claimants further state that they invested \$125,000.00 and by July, 1990, the total principal was \$43,000.00. Claimants allege that JJC and JSC failed to supervise Leppo.

JJC denies liability for any activity in Claimants' account prior to June, 1990 based upon the fact that JJC did not merge with Josephthal & Co. but rather bought the assets of Josephthal & Co. JJC asserts an affirmative defense and requests that the claims be dismissed against JJC. JJC also denies each and every allegation of wrongdoing.

Leppo denies liability and denies any wrongdoing. Leppo asserts that the trading activities were consistent with the Claimants' investment objectives and that Mr. Orlando suggested many of the purchases including Lojak and Tandy. Leppo states that he only allowed the Claimants to trade options on a limited basis, less than 10% of the investments. Leppo states that while Claimants' principal was reduced to \$43,000.00 in October, 1990, they received dividends from January, 1989 to October, 1990.

JSC denies liability. JSC asserts four affirmative defenses, one of which is that Claimants failed to allege any failure or breach by JSC of any duty owed to the Claimants.

RELIEF REQUESTED

Claimant requests an award of \$82,000.00, plus interest at an annual rate of eight percent (8%) and punitive damages.

Respondents requests that the claim be dismissed in its entirety and that costs be assessed against Claimants.

OTHER ISSUES CONSIDERED AND DECIDED

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 originals remain on file with the NASD.

Claimant filed a Motion to Amend the Statement of Claim to add Josephthal & Co., Inc. as a Respondent on March 20, 1992. Respondents did not object and this Panel allowed the Motion. Claimants thereafter filed an amended Submission Agreement and JSC filed its Answer.

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. Claimants are awarded a total amount of **FORTY TWO THOUSAND DOLLARS AND NO CENTS (\$42,000.00)** and Respondents are liable as stated in the ensuing paragraphs;
2. Leppo is hereby liable and shall pay Claimants **SEVEN THOUSAND DOLLARS AND NO CENTS (\$7,000.00)**;
3. JSC and JJC are jointly and severally liable and shall pay Claimants **THIRTY FIVE THOUSAND DOLLARS AND NO CENTS (\$35,000.00)**;
4. The claim for interest is denied;
5. The claim for punitive damages is denied;
6. The claims for attorney's fees and costs are denied;
7. All other claims are denied.

FORUM FEES

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

1. Forum fees in the amount of \$2,000.00 for four hearing sessions at \$500.00 per session are assessed and shall be borne jointly and severally by JSC and JJC;
2. Claimants are assessed the \$150.00 non-refundable filing fee. Claimants paid \$650.00 and are entitled to a refund of \$500.00.

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Fees are payable to the National Association of Securities Dealers, Inc.

Concurring Arbitrator's Signature


Linda A. Gelfand
Industry Arbitrator

Executed on:

~~Date of Decision:~~


10/14/92

Date of Decision: November 3, 1992

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Concurring Arbitrator's Signature

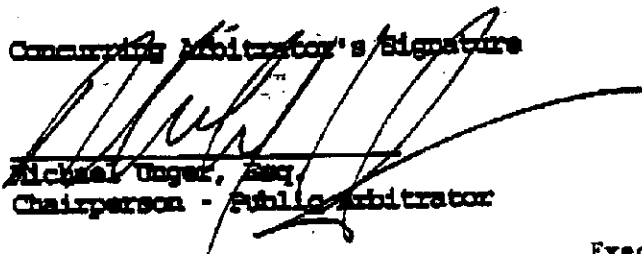

June Y. Kilmarx, Esq.
Public Arbitrator

Date of Decision: November 3, 1992

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Concurring Arbitrator's Signature


Michael Unger, Esq.
Chairperson - Public Arbitrator

Executed on
~~Date of Decision:~~ 10-30-92

Date of Decision: November 3, 1992