

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

John Slipek

92-00179

Name of Respondents

American Bond Group, Inc.
Joseph Minieri

REPRESENTATION

For Claimant John Slipek ("Claimant") was represented by: Patrick T. Collins, Esq. of the law firm of Franzblau, Dratch & Friedman, Roseland, NJ.

For Respondent Joseph Minieri ("Minieri") was represented by: Edward R. Curtin, Esq. of the law firm of Gersten, Savage, Kaplowitz & Curtin, New York, NY.

Initially, Respondents were represented by Bruce R. Kaliner, Esq of the law firm of Mound, Cotton & Wollan, who appeared at the preliminary hearing on May 13, 1993; later the law firm withdrew. At the hearing on February 15 and March 23, 1994, American Bond did not appear and was not represented.

CASE INFORMATION

Statement of Claim filed on: January 16, 1992.

Claimant's Submission Agreement signed on: January 15, 1992.

Claimant's Opposition to Respondents' Motion to Dismiss and Cross Motion to Dismiss Counterclaim of Minieri filed on: August 24, 1992.

Joint Statement of Answer and Counterclaim of Minieri filed by Respondents American Bond and Minieri (collectively referred to as "Respondents") on: July 29, 1992.

Respondents' Motion to Dismiss filed on: July 29, 1992.

Minieri's Submission Agreement signed on: July 29, 1992.

American Bond's Submission Agreement signed on: July 29, 1992.

HEARING INFORMATION

Pre-Hearing Telephone Conference with the Chairperson was held on: May 6, 1993.

Preliminary Hearing was held on: May 13, 1993, one session.

Hearing Dates/Sessions: February 15, 1994 - two sessions.
March 23, 1994 - two sessions.

Hearing Location: NASD Arbitration Office, New York, NY.

CASE SUMMARY

Claimant alleged, among other things, that during the course of his business relationship with Respondents that Respondents engaged in unauthorized and excessive trading, resulting in excessive commissions. Claimant alleged that Respondents failed to follow Claimant's instructions with regard to various transactions, but not limited to the sale of 1,000 shares of Mailboxes, Etc. ("Mailboxes"). Claimant alleged that Respondents engaged in unauthorized scheme in which Minieri not only sold the 1,000 shares of Mailboxes specifically designated by Slipek to be held but also went short 1,000 shares of Mailboxes. Claimant alleged that Respondents violated Section 12(2) of the Securities Act of 1933, Section 10(b) of the Securities Exchange Act of 1934 and violated the rules of the various exchanges. Furthermore, Claimant alleged that Respondents breached their fiduciary duty that they owed him, or alternatively, were negligent in the maintenance and trading of his account. Claimant alleged that American Bond failed to properly supervise Minieri's management of Claimant's account.

Respondents denied each and every allegation of wrongdoing asserted by Claimant. Respondents maintained, among other things, that all trades in Claimant's account were authorized. Respondents denied that there was excessive trading, violations of Federal or Exchange rules, fraud, breach of fiduciary duty, negligent supervision and or unsuitable purchases. Minieri counterclaimed for return of his first payment to Claimant which Claimant was to hold in escrow until there was sufficient capital for Claimant and Minieri to open a retail brokerage business.

Claimant asserted, among other things, that the counterclaim is unrelated to Claimant's trading accounts, and therefore, the counterclaim is not arbitrable in this forum.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$50,000, plus punitive damages, interest, attorneys' fees and costs. Claimant also requested that Minieri's counterclaim be denied in its entirety.

Respondents requested that all claims asserted by Claimant be dismissed in their entirety and that Minieri be awarded \$9,131.00 on his counterclaim.

OTHER ISSUES CONSIDERED & 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.

Minieri made a motion to withdraw his counterclaim. This motion was granted by the Panel.

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's claim is denied in its entirety.
2. Each party is responsible for their costs and attorneys' fees, except as specifically provided for herein.

OTHER COSTS

The Panel granted Respondent Minieri's postponement of the hearings scheduled for September 21 and 22, 1994 and has determined that Respondent Minieri is assessed a postponement fee of \$400. Therefore, Minieri shall pay to the NASD a postponement fee in the amount of \$400.

Respondents filed a counterclaim against Claimant and was assessed forum fees in the amount of \$800 (\$500 of which is a non refundable fee and \$300 of which is a hearing session deposit). Respondents deposited a fee of \$75 and had a balance due to the NASD of \$725 for his counterclaim. However, at the hearing

Minieri withdrew his counterclaim. Respondents need not deposit the hearing session fee of \$300, but the non refundable fee of \$500 minus Respondents hearing session deposit of \$75 is still due. Therefore, Respondents shall deposit \$425 to cover the initial costs of the non refundable filing fee.

FORUM FEES

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

$$5 \text{ sessions} \times \$400 = \$2,000$$

Forum fees Assessed Against the Claimant and the Respondents equally so that Claimant is assessed forum fees in the amount of \$1,000 and Respondents American Bond and Minieri are assessed forum fees in the amount of \$1,000. Claimant has a hearing session fee of \$400 previously deposited to offset this fee, plus he has an overpayment fee of \$130 available to offset his forum fees so that the amount due from the Claimant is \$470.

Respondents American Bond and Minieri are jointly and severally assessed forum fees in the amount of \$1,000.

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

ARBITRATION PANEL

Romeo J. Barros, Esq., Chairman
Sidney Horowitz
Dominick L. Natale, Esq.

Public Arbitrator
Public Arbitrator
Industry Arbitrator

Concurring Arbitrator's Signature
Name

Public/Industry

Romeo J. Barros
Romeo J. Barros, Esq.

Public
Public

STATE OF: *New York*
COUNTY OF: *New York*

S.S.:

On this *7th* day of *July*, 1994, before me personally appeared **Romeo J. Barros, Esq.** known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.

Dorothy Merritt

DOROTHY MERRITT
Commissioner of Deeds
City of New York No. 1-3291
Commission Expires *May 1, 1996*

STATE OF:
COUNTY OF:

S.S.:

On this 11 day of July, 1994, before me personally appeared Sidney Horowitz known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.

JEFFREY M. FRIED
NOTARY PUBLIC, STATE OF NEW YORK
No. 01 FR 24-4702778
QUALIFIED IN KINGS COUNTY
COMMISSION EXPIRES MARCH 30, 1995

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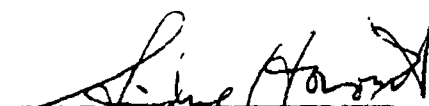
ARBITRATION PANEL

Romeo J. Barros, Esq., Chairman
Sidney Horowitz
Dominick L. Natale, Esq.

Public Arbitrator
Public Arbitrator
Industry Arbitrator

Concurring Arbitrator's Signature
Name

Public/Industry


Sidney Horowitz

Public

NASD DATE OF DECISION: July 14, 1994

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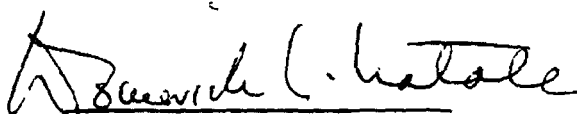
ARBITRATION PANEL

Romeo J. Barros, Esq., Chairman
Sidney Horowitz
Dominick L. Natale, Esq.

Public Arbitrator
Public Arbitrator
Industry Arbitrator

Concurring Arbitrator's Signature
Name

Public/Industry


Dominick L. Natale, Esq.

Industry

STATE OF: *New York*
COUNTY OF: *New York*

S.S.:

On this *5th* day of *July*, 1994, before me personally appeared **Dominick L. Natale, Esq.** known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.

Charlotte Natale

CHARLOTTE NATALE
Notary Public, State of New York
No. 31-485008
Qualified in New York County
Commission Expires March 10, 1996