

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Robert L. Beacher

92-00260

Name of Respondents

Concorde Brokerage Corp,  
Michael Eisenberg

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REPRESENTATION

For Claimant, Robert L. Beacher: James P. Newell, Esq. and Robert L. Beacher, pro-se.

For Respondent, Concorde Brokerage Corp.: Michael F. Bachner, Esq., a sole practitioner.

For Respondent, Michael Eisenberg: Michael Eisenberg, pro-se.

CASE INFORMATION

Statement of Claim filed: January 24, 1992.

Claimant's Submission Agreement signed on: September 8, 1992.

Claimant's Amendment to Statement of Claim filed on July 17, 1992.

Statement of Answer filed by Respondent, Michael Eisenberg on: August 18, 1992.

Respondent, Michael Eisenberg did not file an executed Submission Agreement.

Statement of Answer filed by Respondent, Concorde Brokerage Corp. on: August 28, 1992.

Respondent, Concorde Brokerage Corp. did not file an executed Submission Agreement.

HEARING INFORMATION

Hearing Dates/Sessions:     September 8, 1992 - 2 Sessions.  
   June 16, 1992 - 2 Sessions.

Hearing Location: NASD Offices - New York, NY.

### CASE SUMMARY

Claimant alleges that he opened a cash account at Respondent, Concorde Brokerage Corp. ("Concorde") after several meetings with Respondent, Michael Eisenberg ("Eisenberg"). Claimant alleges that he gave Eisenberg complete authority to act on his behalf in monitoring the account. Claimant alleges that Respondents breached their fiduciary duty to him, made false statements to him, failed to disclose material information to him and deceived him in connection with his investments. Claimant alleges that the Respondents did not advise him of the volatility of the securities purchased for his account, and failed to diversify his investment portfolio to protect against such loss.

Respondent, Michael Eisenberg denies that he had complete authority over Claimant's account. Eisenberg maintains that he and Concorde Brokerage Corp. acted in good faith and that all statements made to the Claimant were true and accurate. Eisenberg maintains that the Claimant was informed of the risks associated with each type of investment. Eisenberg denies that Claimant was defrauded in any way. Eisenberg maintains that Claimant was aware of the speculative nature of his investments. Eisenberg denies that there was any fraud, misrepresentation or failure to disclose on his part.

Respondent, Concorde Brokerage Corp. maintains that Concorde was purchased by North Shore from Paul Eisenberg (Respondent, Michael Eisenberg's brother). Concorde maintains that several problems were not disclosed to North Shore before the purchase, including Claimant's claim. Concorde maintains that it was compelled to change its name and The Wellington Group was then formed. Accordingly, The Wellington Group (f/k/a Concorde Brokerage Corp.) maintains that it has no responsibility for what may have occurred between Concorde, Eisenberg and the Claimant. The Wellington Group maintains that there is no documentation in their records that indicate that Eisenberg had complete authority or discretion over Claimant's account. The Wellington Group maintains that the investment made by the Claimant was suitable with his investment objectives and that Claimant knew that the securities he purchased were speculative.

### RELIEF REQUESTED

Claimant requested damages in the amount of \$31,250.00 plus costs and disbursements, including attorney's fees.

Respondent, Michael Eisenberg maintains that Claimant did not suffer any losses in his account.

Respondent, Concorde Brokerage Corp. (The Wellington Group) requested that all claims be denied, or in the alternative, that they be held harmless for the undisclosed acts of Eisenberg.

**OTHER ISSUES CONSIDERED & DECIDED**

Pursuant to the by-laws of the NASD, Inc., the arbitrators determined that Respondents, Michael Eisenberg and Concorde Brokerage Corp. were required to submit to this arbitration, notwithstanding their failure to submit executed Submission Agreements. Therefore, the Respondents are bound by this panel's rulings and determinations.

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.

**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) Claimant's Statement of Claim is hereby dismissed in its entirety.
- 2) Each party shall bear their respective costs of this action, including attorney's fees.

**FORUM FEES**


Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fee(s) are assessed.

4 sessions X \$400 = \$1,600 minus hearing session deposit of \$400 = net \$1,200 due.

Forum fees Assessed Against: Respondent, Michael Eisenberg. Respondent, Michael Eisenberg shall pay this amount to the NASD, Inc.

Concurring Arbitrator's Signature  
Name

Public Arbitrator

  
Leo Cooperman, CPA

Date of Decision: July 21, 1993

STATE OF NEW YORK  
COUNTY OF *Westchester*

S.S.:

On this *11* day of July, 1993, before me personally appeared Leo Cooperman know 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.

*11*  
NOTARY PUBLIC, State of New York  
No. 4572135  
Qualified in Dutch County  
Commission Expires Jan 25, 1995

**OTHER ISSUES CONSIDERED & DECIDED**

Pursuant to the by-laws of the NASD, Inc., the arbitrators determined that Respondents, Michael Eisenberg and Concorde Brokerage Corp. were required to submit to this arbitration, notwithstanding their failure to submit executed Submission Agreements. Therefore, the Respondents are bound by this panel's rulings and determinations.

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- 1) Claimant's Statement of Claim is hereby dismissed in its entirety.
- 2) Each party shall bear their respective costs of this action, including attorney's fees.

**FORUM FEES**

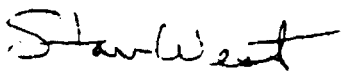
Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fee(s) are assessed.

4 sessions X \$400 = \$1,600 minus hearing session deposit of \$400 = net \$1,200 due.

Forum fees Assessed Against: Respondent, Michael Eisenberg. Respondent, Michael Eisenberg shall pay this amount to the NASD, Inc.

Concurring Arbitrator's Signature  
Name

Public Chairperson



Stan West

Date of Decision: July 21, 1993

STATE OF NEW YORK  
COUNTY OF *NEW YORK*

S.S.:

On this *16* day of July, 1993, before me personally appeared Stan West know 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.

*Maria Campese*

MARIA A. CAMPESE  
Notary Public, State of New York  
No. 62-4965360  
Qualified in Suffolk County  
Commission Expires April 16, 19*94*

**OTHER ISSUES CONSIDERED & DECIDED**

Pursuant to the by-laws of the NASD, Inc., the arbitrators determined that Respondents, Michael Eisenberg and Concorde Brokerage Corp. were required to submit to this arbitration, notwithstanding their failure to submit executed Submission Agreements. Therefore, the Respondents are bound by this panel's rulings and determinations.

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.

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- 1) Claimant's Statement of Claim is hereby dismissed in its entirety.
- 2) Each party shall bear their respective costs of this action, including attorney's fees.

**FORUM FEES**

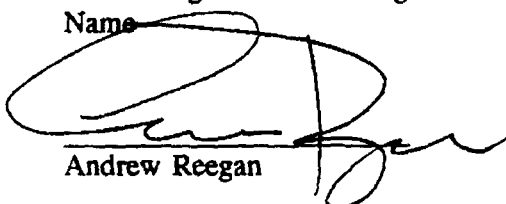
Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fee(s) are assessed.

4 sessions X \$400 = \$1,600 minus hearing session deposit of \$400 = net \$1,200 due.

Forum fees Assessed Against: Respondent, Michael Eisenberg. Respondent, Michael Eisenberg shall pay this amount to the NASD, Inc.

Concurring Arbitrator's Signature

Name



Andrew Reegan

Industry Arbitrator

Date of Decision: July 21, 1993

STATE OF NEW YORK  
COUNTY OF *New York*

S.S.:

On this *15* day of July, 1993, before me personally appeared Andrew Reegen know 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.

*Salvatore A. Margarella*

SALVATORE A. MARGARELLA  
NOTARY PUBLIC, State of New York  
No. 4788784  
Qualified in Richmond County  
Commission Expires April 30, 1995