

N.A.S.D. 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

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**In the Matter of the Arbitration Between****Name of Claimants**

John and Eleanor Zawiski

92-00563

**Name of Respondents**Roney & Co.  
David Peters

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**REPRESENTATION**

For Claimants John and Eleanor Zawiski ("Claimants"): Mr. Zawiski appeared for Claimants.

For Respondents Roney & Co. ("Roney") and David Peters ("Peters"): Robert N. Rapp, of Calfee, Halter et al.

**CASE INFORMATION**

Statement of Claim filed: February 14, 1992.

Claimant's Submission Agreement signed on: January 22, 1992.

Joint Statement of Answer filed by Respondents on: May 18, 1992.

Respondent Roney's Submission Agreement signed on: May 11, 1992.

Respondent Peter's Submission Agreement signed on: May 11, 1992.

**HEARING INFORMATION**

Hearing Date/Sessions: October 13, 1992/2 sessions.

Hearing Location: NASD, Inc./Cleveland, OH.

**CASE SUMMARY**

Claimants alleged that when their account executive left Roney, the account was assigned to Peters (for reasons unknown). Claimants alleged Peters sold the stocks in their portfolio in 1989 and made two (2) purchases and sales. Claimants alleged that during the first nine (9) months of 1990 Peters made eleven (11) unauthorized purchases and sales. Claimants alleged Peters churned their accounts; bought stocks close to margin calls; and purchased large positions in low price, volatile stocks and warrants while John Zawiski ("Zawiski") alleged he did not know anything about these securities and believed they were risky. Claimants alleged they had difficulty reaching

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Peters and when they did speak with him, they complained about receiving letters for margin calls, e.g. Salomon, Inc. Nikkei 225 Calls Wts where they alleged they paid a commission both ways; and USX Corporation which they alleged was a similar deal regarding the commission.

Claimants alleged Roney was at fault for not determining whose fault it was for sending out five (5) margin call letters in a short period of time.

Respondents alleged Peters was assigned the Claimants' account at Roney upon the departure of Claimants' account representative. Respondents alleged Peters and Zawiski established a cordial working relationship and Peters became aware of Claimants' financial profile, investment objectives and prior experience. Respondents alleged that Zawiski indicated the money invested in the Roney account was "trading money". Respondents alleged Peters made recommendations to Zawiski which were consistent with Claimants' profile. Respondents alleged Zawiski authorized every transaction and that there were eleven (11) purchases of stock by Zawiski on recommendations by Peters. Respondents alleged Claimants suffered market losses due to the Iraqi invasion of Kuwait and subsequent U.S. response.

Respondents denied that Zawiski was unaware of transactions in his account; denied allegations of churning; maintained that Peters' recommendations were discussed with Zawiski; and that margin calls were precipitated by adverse market action and Peters explained the extent of the Claimants' obligations concerning the margin calls. Respondents alleged Peters' recommendations were suited to the account and suitable for the customer.

#### RELIEF REQUESTED

Claimants requested: actual damages in the amount of \$22,618.00.

Respondents requested: an award in their favor denying Claimants' claim in its entirety; and forum costs.

#### OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that a handwritten, signed Award may be entered. In this case, the parties have agreed to receive a conformed copy 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 resolu-

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tion of the issues submitted for determination as follows:

- 1- The Claims of Claimants John and Eleanor Zawiski are denied in their entirety;
- 2- Each party shall bear its own costs.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the NASD shall retain the \$100.00 non-refundable filing fee previously deposited by Claimant and the following Forum Fees are assessed.

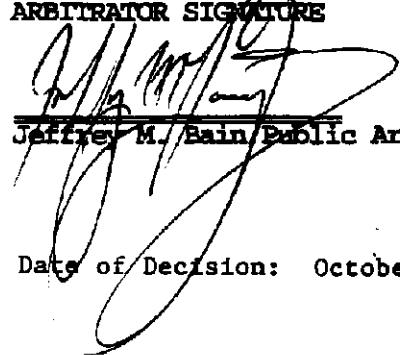
2 sessions X \$300.00 = \$600.00 minus hearing session deposit of \$300.00 = net \$300.00 due.

Forum fees Assessed Against:

- 1- Respondents, jointly and severally, in the amount of \$300.00. Respondents shall also, jointly and severally, reimburse Claimants the sum of \$300.00 to represent the hearing session deposit.

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

ARBITRATOR SIGNATURE



Jeffrey M. Bain, Public Arbitrator

Date of Decision: October 21, 1992