

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Michael J. Alois

NASD Arbitration
No. 92-02779

Name of Respondent(s)

Merrill Lynch, Pierce, Fenner & Smith, Inc.
James Ross

REPRESENTATION

For Claimant: George T. Kelly, Esq., Long Beach, California

For Respondents: Michael E. Olney, Esq., Merrill Lynch, Pierce, Fenner & Smith, Inc., New York, New York

CASE INFORMATION

Statement of Claim filed: September 28, 1992

Claimant's Reply to Respondents' Counterclaim filed: February 8, 1993

Claimant's Submission Agreement signed: September 9, 1992

Joint Statement of Answer and Counterclaim filed by Respondents: January 20, 1993

Michael E. Olney's correspondence of February 23, 1993 withdrawing Respondents' Counterclaim filed: February 25, 1993

Respondents' Submission Agreements signed as follows:

Merrill Lynch, Pierce, Fenner & Smith, Inc.: January 19, 1993

James Ross: December 16, 1992

HEARING INFORMATION

Pre-Hearing Conference Date/Session: July 9, 1993 (one session)

Hearing Dates/Sessions: July 15, 1993 (two sessions)
July 16, 1993 (two sessions)

Hearing Location: Los Angeles, California

CASE SUMMARY

Claimant alleged violation of Section 10(b) of the Securities Exchange Act of 1934, false and misleading actions and or statements of material fact by Respondents, racketeering, fraud, breach of fiduciary duty, violation of New York Stock Exchange, Inc. and National Association of Securities Dealers, Inc. (NASD) rules, unsuitability and breach of contract with respect to securities and option transactions in Claimant's account.

Respondents denied all of the allegations of unsuitable trading, securities fraud, racketeering, breach of fiduciary duty, violation of exchange rules, breach of contract, failure to supervise or any other alleged liability set forth in Claimant's Statement of Claim. Respondents also asserted affirmative defenses.

RELIEF REQUESTED

Claimant requested:

1. Compensatory damages equal to the market value of Claimant's option in Apple Computers, Inc. at the date of its call date April 1991 or approximately \$75,000.00;
2. Punitive damages in the amount of \$150,000.00; and
3. Attorney's fees in the amount of \$25,000.00.

Respondents requested:

1. Dismissal of Claimant's claims;
2. Attorney's fees;
3. Costs and expenses; and
4. Such other and further relief as is deemed just and proper.

OTHER ISSUES CONSIDERED & DECIDED

Claimant's claim was originally filed in Orange County Superior Court, State of California, Case Number 678060. Pursuant to Respondents' Motion, the Court ordered the matter to arbitration.

During a pre-hearing telephonic conference conducted July 9, 1993, George T. Kelly advised that, after further consideration, Claimant withdrew his claims relating to suitability in this matter.

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. All claims by Claimant, including the claim for punitive damages, are dismissed.
2. The parties shall each bear their respective costs including attorney's fees.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following forum fees are assessed: The NASD shall retain the \$750.00 hearing session deposit previously deposited by the Claimant. Forum fees are assessed against:

Claimant, Michael J. Alois in the amount of \$2,550.00, calculated as follows: One pre-hearing session times \$300.00/session plus four hearing sessions times \$750.00/session minus the \$750.00 hearing deposit retained by the NASD.

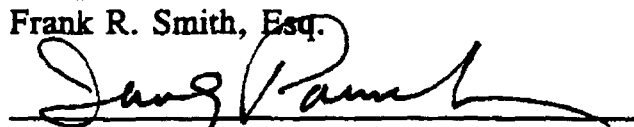
Fees are payable to the National Association of Securities Dealers, Inc.

ARBITRATORS

<u>Name</u>	<u>Public/Industry</u>
Frank R. Smith, Esq.	Public Arbitrator
Irving Porush	Public Arbitrator
Luther Delano Prater	Industry Arbitrator

Concurring Arbitrators' Signatures

Frank R. Smith, Esq.



Irving Porush

Luther Delano Prater

Date of Decision: _____

July 29, 1993

Served 8/4/1993


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Irving Porush

Luther Delano Prater

Date of Decision: _____

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Concurring Arbitrators' Signatures

Frank R. Smith, Esq.

Irving Porush

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Date of Decision: *July 29, 1993*

Served 8/4/1993