

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of Arbitration Between

Name of Claimant

Raymond and Myrna Wang

vs.

Case # 92-03375

Name of Respondents

Josephthal & Co., Inc.
Paul N. Garofalo, Jr.

REPRESENTATION

For Claimant: Raymond and Myrna Wang, Bruce S. Schaeffer, Esq.

For Respondent: Josephthal & Co., Inc., ("Josephthal"), Robert Moses of Josephthal & Co., Inc.

For Respondent: Paul N. Garofalo, Jr. ("Garofalo"), Roger L. Fidler, Esq.

CASE INFORMATION

Statement of Claim filed: October 1, 1992.

Claimants' Submission Agreement was signed on: September 25, 1992.

Statement of Answer filed by Respondent, Josephthal & Co., Inc. on: October 29, 1992.

Statement of Answer filed by Respondent, Paul N. Garofalo, Jr. on: December 8, 1992.

Respondent, Josephthal & Co. Inc.'s Submission Agreement signed on: October 15, 1992.

Respondent, Paul N. Garofalo, Jr.'s Submission Agreement signed on : January 18, 1993.

HEARING INFORMATION

Pre-Hearing Confernces:	July 6, 1993	-	One session
	August 11, 1993	-	One session
Hearing Dates/Sessions:	October 18, 1993	-	Two sessions
	October 19, 1993	-	Two sessions
	October 20, 1993	-	Two sessions

Hearing Location: National Association of Securities Dealers, Inc. NASD Financial Center, 33 Whitehall Street, New York, New York 10004.

CASE SUMMARY

Claimants alleged that Respondent, Garofalo bought 1,000 shares of Regency International, Inc. for Claimant in November, 1991 without obtaining authorization until after the purchase.

Claimants further alleged that Garofalo purchased securities in Regency International, Inc., Sherwood Corp., and Cofis International Corp. without prior authorization subsequent to the November, 1991 purchase of Regency International.

Claimants further alleged that Respondent Garofalo purchased unsuitable investments without obtaining prior authorization from Claimant which resulted in a loss in Claimants account in the amount of over \$125,000.

Claimants further alleged that the Respondent breached their fiduciary duties by executing unauthorized trades in unsuitable securities in Claimants account in violation of State and Federal Laws, Sections 10(b) and 20 of the Securities and Exchange Act of 1934 and Rule 10b-5, the Securities Laws of the State of New York, and Common Law Fraud and Breach of Fiduciary Duty.

Claimants further alleged a claim against the Respondents for a pattern of racketeering activity in violation of 18 U.S.C. Section 1961 ("RICO"). In addition, Claimants alleged that Respondent violated 18 U.S.C. Section 1341.

Respondents, Josephthal & Co., Inc. and Garofalo alleged that Claimants' purchase of stock in Regency International was not solicited by Garofalo or Josephthal & Co.

Respondents further alleged that Claimants' purchase of Regency International was not unsuitable or made without authorization.

Respondents further asserted that at no time did it or any agent engage in conduct in breach of any duty owed Claimant under common law or regulatory law.

Respondents further alleged that Claimants ratified the transactions involving the Sherwood Corp. securities and failed to mitigate their damages.

RELIEF REQUESTED

Claimants requested: Damages equal to actual losses in the amount of \$125,801.25 plus the investment income which would have been earned on the bonds disposed of in the amount of \$2,100.

In addition, Claimants requested an award of punitive damages in an amount to be determined by the arbitration panel.

Respondents requested: Dismissal of Claimants' Claim in its entirety together with costs assessed against the Claimants.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearings, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Award directed in favor of the Claimant in the amount of \$174,460.00 against both Respondents jointly and severally.
2. Respondents shall pay the forum fees for the cost of this arbitration.

FORUM FEES

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

8 sessions x \$750.00 = \$6,000.00
Initial filing fee = \$200.00
Total = \$6,200.00

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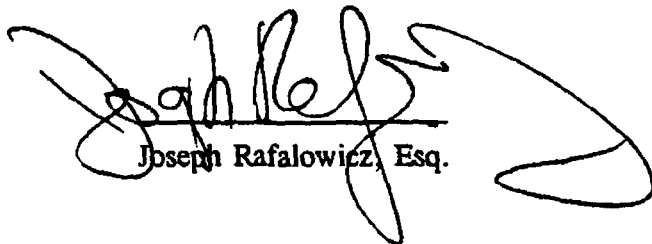
- 1) Respondent is directed to pay \$6,200.00 in forum fees to the NASD.
- 2) Respondent shall satisfy the forum fees by a) reimbursing Claimant \$950.00, representing \$200.00 for the non-refundable filing fee and \$750.00 hearing session deposit already paid to the NASD by the Claimant, and b) paying the NASD the sum of \$5,250.00, representing the balance of the forum fees for the arbitration.

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

CONCURRING ARBITRATORS' SIGNATURE

Name

Public/industry


Joseph Rafalowicz, Esq.

Public Arbitrator

Date of Decision:

Feb 8, 1994

NASD DATE OF DECISION: February 16, 1994

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**STATE OF
COUNTY OF**

On this *8* day of February, 1994, before me personally appeared **JOSEPH RAFALOWICZ, ESQ.**, known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledge to me that he executed the same.

A handwritten signature in dark ink, appearing to read "Patricia A. Natoli", written over a horizontal dashed line.

PATRICIA A. NATOLI
Notary Public, State of New York
No. 4770864
Qualified in Westchester County
Commission Expires March 30, 19*94*

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

On this *15th* day of February, 1994, before me personally appeared **HARRY WEISS** known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledge to me that he executed the same.

Maria Campese

MARIA A. CAMPESE
Notary Public, State of New York
No. 52-4986380
Qualified in Suffolk County *94*
Commission Expires April 16, 19*94*

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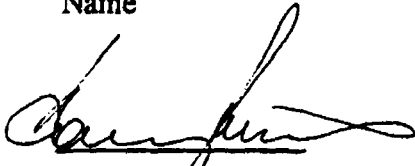
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Fees are payable to the National Association of Securities Dealers, Inc.

CONCURRING ARBITRATORS' SIGNATURE

Name

Public/industry


Harry Weiss


Public Arbitrator

Date of Decision: 2/4/1994

NASD DATE OF DECISION

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

CONCURRING ARBITRATORS' SIGNATURE

Name

Public/industry



Clifford J. Friedman

Industry Arbitrator

Date of Decision: February 16, 1994

NASD DATE OF DECISION

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STATE OF
COUNTY OF

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On this day of February, 1994, before me personally appeared **CLIFFORD J. FRIEDMAN** known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledge to me that he executed the same.

Mark

MARK O. GLUT
Notary Public, State of New York
No. 4085183
Qualified in Queens County
Commission Expires April 20, 1995 *GL*