

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

Name of Claimant

Ray Roberts

No. 92-04149

Name of Respondents

Gruntal & Co., Inc.
James Cox

REPRESENTATION OF PARTIES

For Claimant: Nicholas P. Iavarone, Esq., of Bellows and Bellows, Chicago, Illinois.

For Respondents: Kimberly Unger, Esq., of Gruntal & Co., Inc., New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: December 8, 1992.

Claimant's Submission Agreement signed: December 1, 1992.

Statement of Answer filed by the Respondents on or about: February 3, 1993.

HEARING INFORMATION

Hearing dates: July 22, 1993. Two (2) sessions.
 July 23, 1993. Two (2) sessions.
 September 22, 1993. Two (2) sessions.
 September 23, 1993. Two (2) sessions.
 September 24, 1993. Two (2) sessions.

Hearing Location: Chicago, Illinois.

CASE SUMMARY

Claimant, Ray Roberts ("Claimant") alleged that Respondent James Cox ("Cox") exercised discretionary control over Claimant's account, and had engaged in numerous short-term, in-and-out trades. Claimant further alleged that in direct contradiction of the specific instructions Claimant had given, Cox allegedly made trades in securities in which Gruntal was a market-maker or acted as principal. Claimant also alleged: That Respondent Gruntal & Co., Inc. ("Gruntal") failed to supervise Cox, and attempted to induce the Claimant to ratify Gruntal's fraudulent activity; omissions and misrepresentations of Gruntal and Cox in violation of Chapter 121 1/2 of the Illinois Revised Statutes; violation of the 1934 Securities and Exchange Act; fraud; and a breach of fiduciary duty by Cox and Gruntal. The allegations arose out of transactions in the following securities: Blockbuster Entertainment Corp.; Trans World Airlines Inc. JR Sub Deb Reg; and Sara Lee Corp., amongst others more fully covered at the hearing.

Respondents Gruntal and Cox denied each and every substantive allegation in the Statement of Claim. In addition, Respondents Gruntal and Cox asserted the following affirmative defenses:

1. Claimant authorized, accepted and/or ratified each of the transactions complained of.
2. At all times relevant, Claimant's account was handled properly and in accordance with the "Know your customer" Rule of the New York Stock Exchange, Inc. and the "Suitability" Rule of the National Association of Securities Dealers as well as with other applicable rules and regulations.
3. Claimant's account was invested in accordance with Claimant's investment objectives.
4. Any losses sustained by Claimant are attributable to market conditions and to the Claimant's investment decisions, not to any action or inaction on Respondents' part.
5. The claim is barred by the doctrines of waiver, estoppel and ratification.
6. Claimant has failed to state a claim upon which relief can be granted.
7. Claimant has failed to state a claim for punitive damages.
8. Claimant has failed to mitigate damages.

RELIEF REQUESTED

Claimant requested, pursuant to the Illinois Securities Act, rescission of the losing transactions which total \$184,517.52 plus interest at 10%, punitive damages, and pursuant to Illinois Statutes and common law, attorneys' fees and costs.

Respondents, Gruntal and Cox requested that the claim be dismissed in its entirety and that costs be awarded in their favor.

OTHER ISSUES CONSIDERED & DECIDED

Respondents Gruntal and Cox did not file with the NASD a properly executed submissions to arbitration but are required to submit to arbitration pursuant to Section 12 of the NASD Code of Arbitration Procedure (the "Code") and having answered the claim, appeared and testified at the hearing, and therefore, are bound by the determination of the panel on all issues submitted.

The parties have agreed that the Award in this matter may be executed by 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 and the statutes and cases presented to the panel, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant, Ray Robert's claims against Respondents Gruntal & Co., Inc. and James Cox are each and every one of them denied and dismissed with prejudice.

OTHER COSTS

Each party shall bear its own costs associated with this arbitration, including attorneys' fees.

FORUM FEES

Pursuant to Section 43(c) of the Code, the following forum fees are assessed:

10 hearing sessions x \$750.00 = \$4,500.00

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Pursuant to Section 43(c) of the Code, the NASD shall retain the nonrefundable filing fee in the amount of \$200.00, and shall retain the hearing session deposit in the amount of \$750.00 previously paid to the NASD by the Claimant.

Additional forum fees in the amount of \$3,750.00 are assessed against the Claimant.

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

CONCURRING ARBITRATORS

Dated:

Name:

October 22, 1993

/s/ Larry Carlson
Larry Carlson
Presiding Chair
Public Arbitrator

October 26, 1993

/s/ Gregory Bruno
Gregory Bruno
Public Arbitrator

October 22, 1993

/s/ Robert Waite
Robert Waite
Industry Arbitrator

Date of Service by the NASD: October 27, 1993