

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Frank Regini

93-00094

Name of Respondents

Daniel X. Dunphy
Lew Lieberbaum & Co., Inc.
John J. Fasano, Jr.

REPRESENTATION

For Claimant, Frank Regini: Mr. Regini appeared at the hearing pro-se.

For Respondent, Lew Lieberbaum & Co., Inc.: Jay Marc Israel, Esq. of Lew Lieberbaum & Co.

For Respondents, Daniel X. Dunphy and John Fasano: Herbert M. Jacobi, Esq., a sole practitioner.

CASE INFORMATION

Claimant, Frank Regini's Submission Agreement signed on December 15, 1992.

Claimant's Statement of Claim filed on January 8, 1993.

Claimant's Amended Statement of Claim filed on January 30, 1993.

Respondent, Lew Lieberbaum & Co., Inc.'s Submission Agreement signed on May 3, 1993

Respondent, Lew Lieberbaum & Co., Inc.'s Statement of Answer filed on May 3, 1993.

Respondent, John Fasano's Submission Agreement signed on May 27, 1993.

Respondent, John Fasano's Statement of Answer filed on May 6, 1993.

Respondent, Daniel X. Dunphy did not submit an executed Submission Agreement.

Respondent, Daniel X. Dunphy's Statement of Answer filed on May 6, 1993.

HEARING INFORMATION

Hearing date/sessions: September 20, 1993 - One Session.

Hearing location: NASD Offices - New York, NY.

CASE SUMMARY

Claimant alleges that when he met Respondent, Daniel X. Dunphy ("Dunphy") he told Dunphy that his investment objective was safe, and conservative investments. Claimant alleges that Dunphy sold him two stocks, Future Medical and SA Holdings. Claimant alleges that these investments were risky and not consistent with his stated investment objectives. Further, Claimant alleges that Dunphy misrepresented these investments to him.

Claimant alleges that Dunphy sold Disney stock to him and later advised him to sell a call on the stock. Claimant alleges that his stock was not called at the price that Dunphy represented to him. Claimant alleges that when he called Dunphy at Lew Lieberbaum & Co., Inc. ("LLC") he discovered that Dunphy no longer worked there. Claimant alleges that he asked several people what to do regarding his call, and that Respondent, John Fasano ("Fasano") advised him to cover his call. Claimant alleges that he tried to cancel this order and to let the call expire, but that this was not done. Claimant alleges that Dunphy misrepresented the call and failed to act in a professional manner.

Respondent, Lew Lieberbaum & Co., Inc. maintained that all the transactions in the Claimant's account were fully authorized. LLC maintains that the Claimant received monthly statements reflecting the positions and current market value of his account. LLC asserts that Claimant could have complained about his account at any time, but waited for six months until his investments declined in value. In addition, LLC maintains that Claimant continued to do business with them.

Respondent, Daniel X. Dunphy fully denies the allegations contained in the statement of claim.

Respondent, John Fasano fully denies the allegations in the statement of claim.

RELIEF REQUESTED

Claimant requested damages in the amount of \$5,100.18.

Respondent, Daniel X. Dunphy requested that the Claim be denied.

Respondent, John Fasano requested that the Claim be denied.

Respondent, Lew Lieberbaum & Co. requested that the Claim be dismissed and that all costs be assessed against the Claimant.

OTHER ISSUES CONSIDERED AND 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 originals remain on file with the NASD.

AWARD

- 1) The Statement of Claim is hereby dismissed in its entirety.
- 2) Each party shall bear their respective costs of this action.

FORUM FEES

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

\$100.00	Non-refundable filing fee
\$300.00	Hearing Session Fee (1 Session x \$300.00)

Total forum fees in the amount of \$400.00 are hereby assessed against the Claimant. Claimant is entitled to offset this amount with the \$400.00 previously deposited with the NASD, Inc. Therefore, there is no remaining balance due to the NASD, Inc.

Arbitrator's Signature

Name

Allen Kilik
Allen Kilik, Esq.

Public Chairperson

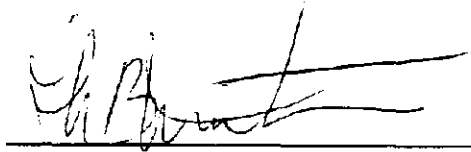
Date of Decision: November 1, 1993

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NEW JERSEY
STATE OF ~~NEW YORK~~
COUNTY OF ESSEX

S.S.:

On this 22 day of October, 1993, before me personally appeared Allen Kilik known 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.

A handwritten signature in dark ink, appearing to read "Allen Kilik", is written over a horizontal line.

NOTARY PUBLIC
NEW JERSEY
COMMISSION EXPIRES 10/31/95