

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Donald Barrett

93-00995

Name of Respondent

Jeffrey H. Supinsky

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on March 16, 1993, Claimant Donald Barrett, who appeared Pro Se, alleged that on December 2, 1992 his account was transferred to Sovereign Equity Management with Respondent Jeffrey H. Supinsky, as broker of record solely because the previous broker dealer, Madison Chapin was dissolved, at which time, Claimant informed Respondent of his investment objectives, namely preservation of capital and although Claimant did some speculation in the past, Claimant clearly informed Respondent that at this time he did not wish to speculate. Claimant further alleged that he did not speak to Respondent again until he called him on April 27, 1992 because he had received his statement from First Trust, IRA custodian, showing a purchase of 3,000 shares of Health Advancement services on January 13, 1992. Claimant contended that the purchase had been paid for using the cash balance that was in his account and subsequently, on February 28, 1992, after an apparent split, 1,000 shares were sold, at which time, on the same day, 1,500 shares of CEC Industries were purchased, again using the cash proceeds in his account whereby no confirmations were received regarding these transactions. Claimant further contended that upon speaking with Respondent, Respondent indicated that Claimant did authorize the transactions and informed him prior to making the purchase and sale, whereby several months later Respondent informed Claimant's son-in-law, his former broker, that the transactions were mistakes and that they would be corrected with all monies returned to his account. Claimant asserted that after several more phone calls went unanswered, he decided to order Respondent to liquidate all his assets on May 12, 1992 and forward all proceeds to First Trust. Claimant further asserted that there were no transactions until June 1, 1992 at which time he discovered a loss in his account whereby only 1,000 shares of the CEC Industries was actually sold, substantially below what he purchased it for, and upon contacting Respondent, Claimant was informed that the loss was

an error and that 1,500 shares were sold at the same price as they were purchased for. Claimant further alleged that several weeks later he received a statement from First Trust not only showing that there were still 1,500 shares of CEC Industries in his account but that the stock was now only worth 1/3 of the original amount, and subsequently on July 22, 1992 500 shares of CEC were sold resulting in a loss, in addition to the loss caused by Respondent's delay in liquidating the account. Claimant further contended that in summary he is retired and living on a fixed income whereby Respondent mishandled his account in relation to his investment objectives, thus, causing him to sustain financial loss.

Respondent Jeffrey H. Supinsky, who appeared Pro Se, maintained that every trade in Claimant Donald Barrett's name was authorized by Claimant. Respondent further maintained that he inherited Claimant's account while at Madison Chapin and when he transferred to Sovereign Equity Management Corp., Claimant signed a transfer form to transfer his account to Respondent. Respondent contended that the transfer in of securities included predominantly growth oriented issues and one highly speculative pink sheet whereby during the course of this relationship, Respondent and Claimant did many trades, some of which were solicited and some were unsolicited but all were authorized by Claimant. Respondent further contended that on January 6, 1992 he called to speak with Claimant to recommend a buy of Hasi at which time Claimant agreed to buy 3,000 shares and subsequently on February 21, 1992, Respondent suggested to Claimant to sell the HASI to take approximately 30% profit and move the money into a company called CEC Industries. Respondent asserted that Claimant was very excited about taking the profit, and agreed to purchase the CEC Industries whereby Claimant later contacted Respondent to question why only 1,000 HASI shares were sold instead of the entire position, at which time, Respondent explained as he had before to Claimant that the company did a reverse split 1-3, and that is why his 3,000 shares were now 1,000 shares. Respondent further asserted that on June 27th, he received a letter from First Trust Corp., the trustee of this account, to liquidate positions in the account at which time, Respondent called Claimant to inquire if there were any problems and Claimant said no, that he was starting to take distributions on his retirement account. Respondent further alleged that he entered the sell orders on the positions and called Claimant to give him reports of the prices, at which time Claimant said he really was not interested in the reports and to send the money out when it was settled. Respondent further contended that on July 22, 1992 he received another letter from First Trust stating to sell the 500 CEC shares remaining in the account and send the money out, whereby Respondent never had any conversations with Claimant and from the time lapse between letters, the sell execution price had dropped dramatically, thus, due to Respondent's error on the execution order, Claimant was credited \$484.37. Respondent further asserted that on the original new account application, the Claimant's objectives for this account were mostly growth, then income, and speculation, thus the claim should be denied. Respondent further maintained that Ruth E. Brooks, Cause Investigation Coordinator of the NASD, investigated Claimant's allegations and "determined that no action is warranted regarding the activities of ... Jeffrey H. Supinsky", thus Respondent asserts the claim should be denied.

RELIEF REQUESTED

Claimant Donald Barrett requested \$1,503.00 in actual damages.

Respondent Jeffrey H. Supinsky requested the claim be denied.

AWARD


Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, George R. Freund, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on March 10, 1993 and by the Respondent on September 3, 1993.

And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondent Jeffrey H. Supinsky is liable and shall pay to the Claimant Donald Barrett the sum of \$165.00 in damages.
2. The parties shall bear their respective costs.
3. The \$50.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Donald Barrett shall be retained by the NASD, Inc. Respondent Jeffrey H. Supinsky is liable and shall pay to the Claimant the sum of \$25.00, as partial reimbursement.

AFFIRMATION

I, **GEORGE R. FREUND**, do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.



Signature of Arbitrator

DATE OF DECISION: October 29, 1993

STATE OF: New Jersey

SS:

COUNTY OF: Union

On this 22 day of OCTOBER 19 93, before me personally appeared George R. Freund to me known and known before me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

Diana M. Pallante

DIANA M. PALLANTE
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires Mar. 17, 1994