

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

George and Maureen Rotella

93-02216

Name of Respondents

The Randall-George Corp.
George Z. Skrabonja
Mark G. Skrabonja

REPRESENTATION

For Claimants, George and Maureen Rotella ("Claimants") appeared Richard W. Vallario, Esq. located in Nutley, New Jersey.

For Respondent, George Z. Skrabonja appeared Robert I. Rabinowitz, Esq. located in Red Bank, New Jersey.

Respondent Mark G. Skrabonja was represented by Richard B. Honig, Esq. of the law firm of Hellring, Lindeman, Goldstein & Siegal located in Newark, New Jersey.

Respondent, The Randall-George Corp. was dissolved in 1992.

CASE INFORMATION

Statement of Claim filed on May 27, 1993.
Claimants' Submission Agreement signed on May 26, 1993.

Statement of Answer filed by Respondent, George Skrabonja, on October 1, 1993.

Respondent George Skrabonja's Submission Agreement signed on September 10, 1993.

Respondent Mark G. Skrabonja did not execute a submission agreement.

HEARING INFORMATION

Hearing Dates/Sessions:	May 16, 1994	-	Two sessions
	May 17, 1994	-	Two sessions
	June 14, 1994	-	Two sessions
	June 15, 1994	-	Two sessions

Hearing Location: National Association of Securities Dealers, Inc. offices located in New York, New York.

CASE SUMMARY

Claimants alleged that the Respondents, The Randall-George Corp., Mark Skrabonja and George Skrabonja (hereafter, referred to collectively as "Respondents") were guilty of fraud, negligence, misrepresentation, omissions, and breach of contract. In addition, the Claimants alleged that the Respondents: unlawfully derived commissions from churning their account; violated the Racketeer Influenced and Corrupt Organization Act (18 USC Section 901(a), Subsection 1962); violated the NASD's suitability rule, and breached a fiduciary duty owed to the Claimants.

Specifically, Claimants alleged that Respondent George Skrabonja solicited and convinced them to open three securities accounts with the respondent firm as follows: (1) Account No. 1 (213-01325) in the amount of \$10,000.00, which represented the Claimants' personal life savings; (2) Account No. 2 (213-01323) in the amount of \$79,057.41, which represented funds held pursuant to an informal trust agreement on behalf of Claimant Maureen Rotella's mother; and (3) Account No. 3 (213-01324) in the amount of \$6,400.00, which represented savings for the twelve year old son of the Claimants. For all three accounts, the Claimants had stipulated an objective of preservation of principal and conservative growth. The Claimants, who gave the Respondents full discretion over trading their accounts, alleged that the Respondents knew of their lack of investment experience.

Moreover, the Claimants alleged that the Respondents engaged their funds in excessive short term trading which generated unnecessary and excessive commissions; that during the period between June 1987 and May 1989, the Claimants contended that the Respondents executed (i) more than twenty-four trades in Account No. 1, (ii) more than fifty-three trades in Account No. 2, and (iii) more than ten trades in Account No. 3; and that their accounts were opened as margin accounts. Claimants also alleged that their accounts were leveraged from the beginning of the trading, and that stock options were purchased without any urging and recommendation by Claimants. Further, the Claimants alleged that the Respondents administered the three accounts in a manner which was unprofessional, unreasonable, unwarranted and in contravention of their ethical

responsibilities.

Respondent George Skrabonja alleged that Claimants' Statement of Claim was filed from an event giving rise to the dispute which took place in June 1987, and therefore, was time barred by the NASD Code of Arbitration, Section 15 and should have been dismissed with prejudice.

In the alternative, Respondent George Skrabonja stated that Respondent, The Randall-George Corp. filed a Form BDW Withdrawal from Broker-Dealer Registration with the NASD and the SEC in 1991 and that in 1992 a Certificate of Corporate Dissolution with the New Jersey Secretary of State's Office. As a result, the respondent firm no longer exists. Respondent George Skrabonja was a corporate officer of The Randall-George Corp., as well as, a general securities principal of the broker-dealer. Furthermore, Respondent Mark Skrabonja, who is Respondent George Skrabonja's brother, was a registered representative of the respondent firm, and in 1990, filed for protection under the Federal Bankruptcy Code.

Respondent George Skrabonja denied the Claimants' allegations that he knew they were unsophisticated and lacked investment knowledge, and instead, maintained that the Claimants had orally represented to him their prior investment experience in stocks and bonds before opening the accounts. Respondent Skrabonja maintained that he initially invested the accounts' monies in the Oppenheimer Equity Income and Tax Free Bond Funds. Moreover, Respondent Skrabonja contended with regard to Account No. 2, which represented the "informal trust" for Claimant Maureen Rotella's mother, that the account was not opened for her, nor was he provided with any separate investment objectives for the account. Following the purchase of positions in the Oppenheimer Funds, Respondent George Skrabonja alleged that the Claimants expressed dissatisfaction with the rate and income generated therefrom. In response, the Respondent maintained that he explained to the Claimants that they would need to take additional risk with their investments, and recommended that they work with his brother, Respondent Mark Skrabonja, who was more familiar with and active in aggressive stocks and options. At this time, the Respondents maintained that the Claimants signed the requisite letter acknowledging the risks inherent in trading in stock and options purchased on margin, and the possible decline in principal.

Respondent George Skrabonja denied the Claimants' allegations of unauthorized or unsuitable trading in their accounts and that he never guaranteed a substantial growth rate from the invested capital. In addition, Respondent George Skrabonja denied that he controlled the Claimants' account activity and that he failed to disclose material facts to them, because he maintained that the Claimants received confirmations following each transaction, as well as, monthly statements. Moreover, Respondent George Skrabonja denied the Claimants' allegations he acted negligently or fraudulently with regard to their accounts. Further, Respondent George Skrabonja affirmatively pleaded that the Claimants be

estopped from any right of recovery based on the following defenses that they were aware of the investment risks involved and voluntarily assumed them, they ratified, adopted and confirmed the Respondent's conduct, and they were barred by the doctrine of laches.

RELIEF REQUESTED

Claimants requested awards against the Respondents as follows:

1. The sum of \$18,243.00, representing commission paid;
2. The sum of \$4,567.17, representing interest;
3. The sum of \$37,860.10, representing actual trading losses;
4. Amounts for compensatory loss of opportunity damages to be calculated at the hearing, as well as, punitive damages; and
5. Costs and reasonable attorney's fees.

Respondent George Skrabonja requested that the arbitration panel find in Respondents favor as follows:

1. Dismiss the Statement of Claim, with prejudice, in accordance with Section 15 of the Code of Arbitration Procedure;
2. In the alternative, either deny the claims in their entirety or deny the claims against Respondent George Skrabonja; and
3. Costs and attorney's fees, as well as, such other and further relief as the arbitration panel deems the Respondent may be entitled.

OTHER ISSUES CONSIDERED & DECIDED

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 original remains on file with the NASD.

In July 1990, Respondent Mark Skrabonja filed a Bankruptcy Petition, and on August 8, 1990, the Clerk of the Bankruptcy Court issued a Notice to Creditors. Subsequently, Respondent Mark Skrabonja was discharged by the United States Bankruptcy Court on November 19, 1990. Therefore, the arbitration panel did not consider claims against him in rendering their decision.

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. Respondent be and hereby is liable and shall pay to the Claimants the sums of
 - (i) \$30,000 for Account No. 213-01323,
 - (ii) \$1,800 for Account No. 213-01324, and
 - (iii) \$5,500 for Account No. 213-01325;
2. All claims for punitive damages be and hereby are denied;
3. Each party shall bear their respective costs, including attorneys' fees.
4. All other claims be and hereby are dismissed.

FORUM FEES

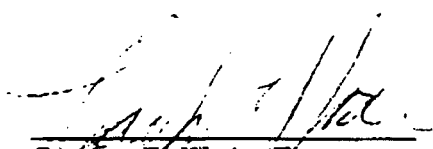
Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed.

8 sessions X \$500 = \$3,000 minus hearing session deposit of \$400 = net \$2,600 due.

Respondent George Skrabonja be and hereby is liable and shall pay to the NASD the sum of \$2,900.00 representing outstanding forum fees.

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

Concurring Arbitrators' Signatures


Carolyn E. Wade Esq.
Chairperson, Public Arbitrator


Anne Cugliani
Public Arbitrator

Fred Shinagel
Industry Arbitrator

STATE OF

COUNTY OF

On this 29 day of August, 1994, before me personally appeared CAROLYN E. WADE known to me to be the individual described in and who executed the foregoing instrument and duly acknowledged to me that he/she executed the same.


MERYL LISA WENG
Notary Public, State of New York
No. 4004380-01
Qualified in Nassau County
Commission Expires 04-02-1996

Date of Decision: September 2, 1994

Concurring Arbitrators' Signatures

Carolyn E. Wade, Esq.
Chairperson, Public Arbitrator

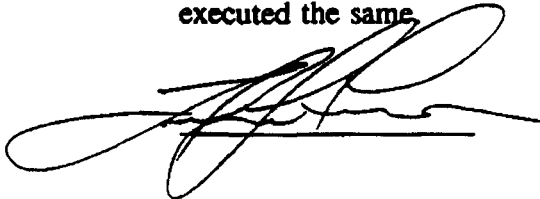


Anne Cugliani
Public Arbitrator

Fred Shinagel
Industry Arbitrator

STATE OF NEW YORK
COUNTY OF SUFFOLK

On this 24 day of August, 1994, before me personally appeared Anne Cugliani known to me to be the individual described in and who executed the foregoing instrument and duly acknowledged to me that he/she executed the same.



LEONARD GEORGE FERRER
Notary Public, State of New York
No. 4880408, Suffolk County
Commission Expires May 31, 1996

Date of Decision: September 2, 1994