

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Bijan F. Hagh

94-00380

Name of Respondent

Kenneth Fiacco

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on February 1, 1994, Claimant Bijan F. Hagh, who appeared Pro Se, alleged that Respondent Kenneth Fiacco of the firm - F.D. Roberts Securities, Inc. violated securities industry regulations by making misrepresentations regarding investments he recommended and by his failure to disclose prior to sale that Medi-Quip and Frankel were both subsidiaries of IBC, and by failing to disclose the necessity of buying Frankel common shares in order to buy its warrants. The Claimant contended that he has suffered damages due to the wrongdoing of the Respondent, and therefore he should be compensated for his losses.

Respondent Kenneth Fiacco, who appeared Pro Se, maintained that he never promised returns to Mr. Hagh, and further that upon making a transaction or recommendation he would always state that these were high risk investments. The Respondent also maintained that he stated the risks associated with investing in Penny stocks numerous times and never pressured him into any investments. Respondent Kenneth Fiacco contended that he never guaranteed the upside or limited his downside on any investment.

RELIEF REQUESTED

Claimant Bijan F. Hagh requested \$5,441.00 in actual damages, plus \$1,000.00 in punitive damages, \$2,993.00 in interest and \$200.00 for attorney's consultation fees.

Respondent Kenneth Fiacco requested that the claims of the Claimant be dismissed.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Alan R. Markizan, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on March 9, 1994 and not by the Respondent as required by Sections 12 & 13 of the NASD Code of Arbitration Procedure.


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 Kenneth Fiacco is liable and shall pay to Claimant Bijan F. Hagh \$5,441.13 in actual damages.
2. The Claimant's request for interest is denied.
3. The Claimant's request for punitive damages is denied.
4. The parties shall bear their respective costs.
5. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Bijan F. Hagh, shall be retained by the NASD, Inc. Respondent Kenneth Fiacco is liable and shall pay to the Claimant \$150.00 as reimbursement of the filing fee.

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AFFIRMATION

I, **ALAN R. MARKIZAN**, 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 31, 1994