

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Fred M. Todaro

94-00670

Name of Respondents

F.N. Wolf & Co., Inc. (Bankruptcy)
Michael Euripedes

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on February 23, 1994, Claimant Fred M. Todaro ("Claimant"), who appeared Pro Se, alleged that Respondents F.N. Wolf & Co., Inc. ("F.N. Wolf") and Michael Euripedes ("Euripedes"), misrepresented the Treats International Enterprises ("Treats") stock. Claimant further alleged that Respondent Euripedes informed Claimant at the time that he purchased 100 shares of Treats, that the stock would soon be listed on the OTC and praised it highly. Claimant asserted that he telephoned Euripedes various times to ascertain the status of the stock, but was told that the delay to get listed on the OTC was due to paper processing problems. Claimant further asserted that Respondent failed to inform Claimant about the investigation of the stock or about the risk of holding the stock. Claimant contended that due to the poor advice and misleading information of the Respondents, he transferred the stock to another brokerage firm, and has suffered damages for which the Respondents should be held liable.

Respondents F.N. Wolf & Co., Inc. and Michael Euripedes, through their representative, Steven Biss, Esq., maintained that they did no wrongdoing because Euripedes explained fully to the Claimant the nature of the Treats investment, the opportunity it offered and the risks involved. Respondents further maintained that the Treats investment was consistent with Claimant's stated objectives, investment experience, income, liquid assets and net worth. Respondents contended that they did not misrepresent or omit any material fact in connection with Todaro's purchase of stock in Treats.

Claimant alleged in his Response that he had no experience investing in stocks or bonds and was conservative by nature. Claimant further alleged that he did not realize a \$10,000.00 profit from his stocks. Claimant asserted that Euripedes would call him for new stock offering and never informed him of the status of his current stocks. Claimant further asserted that Euripedes called him and stated that Treats will double by the end of the summer and told Claimant that he will be able to get his money back at anytime. Claimant denied knowledge that Treat was a "pink sheet" stock. Claimant reasserted that Respondents never disclosed the fact of the investigation to him or any information about Treats especially since Respondents knew that Claimant could not track Treats in the paper.

In a Rebuttal to Claimant's Response, Respondent Euripedes maintained that when he took over Claimant's account he obtained the account opening form which confirmed that Claimant had 10 year experience investing in stocks and bonds, annual income, net worth and risk capital. Respondent further maintained that Claimant informed him that he had 6 years before retirement and wanted to save money through aggressive growth stock investment. Respondent contended that Claimant took his advice in buying certain stocks and as a result of which Claimant did well investing money in the stock market. Respondent further contended that he explained to Claimant the nature of Treats, its history, the market in which it was traded, price ranges and the reasons why Treats would be a good investment. Respondent maintained that he only learned of the SEC investigation of Treat through a copy of the annual report which was also sent to Claimant. Respondent further maintained that he updated Claimant in a timely manner with the information about Treats that was available to him and acted in complete accordance with Claimant's instructions and proper industry standards.

RELIEF REQUESTED

Claimant Fred M. Todaro requested \$5,000.00 in actual damages.

Respondents F.N. Wolf & Co., Inc. and Michael Euripedes requested that the claims be dismissed.

OTHER ISSUES CONSIDERED AND DECIDED

After filing a Statement of Answer but prior to the decision on the merits, Respondent F.N. Wolf & Co., Inc. filed a bankruptcy petition and hence is protected by the automatic stay.

AWARD

Pursuant to Section 10302 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Guy R. Friddell, III, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Fred M. Todaro on February 17, 1994, and by the Respondent F.N. Wolf & Co., Inc. on June 6, 1994 but not by Respondent Michael Euripedes as is required by Sections 10301 and 10302 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 Michael Euripedes is liable and shall pay to Claimant Fred M. Todaro \$1,000.00 in actual damages.
2. The parties shall bear their respective costs.
3. The \$125.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Fred Todaro shall be retained by the NASD, Inc. Respondent Michael Euripedes is liable and shall pay to Claimant Fred Todaro \$62.50 as reimbursement of one-half the filing fee.
4. All other relief requests are denied.

AFFIRMATION

I, **GUY R. FRIDDELL, ESQ.**, 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.



GUY R. FRIDDELL, ESQ.

DATE OF DECISION: December 6, 1996