

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Jill Boeckell

94-00781

Name of Respondents

First Albany Corporation
Maria J. Saulino
Arthur T. Bernsohn

REPRESENTATION

For Claimant Jill Boeckell ("Claimant") appeared Richard West.

For Respondents First Albany Corporation ("FAC"), Maria J. Saulino ("Saulino") and Arthur T. Bernsohn ("Bernsohn"), (collectively referred to as "Respondents"), appeared Mark J. Astarita, Esq., of the law firm of Gusrae, Kaplan, & Bruno, located in New York, New York.

CASE INFORMATION

Statement of Claim filed: March 1, 1994.

Claimant's Submission Agreement signed on: February 22, 1994.

Statement of Answer filed jointly by Respondents on: August 4, 1994.

Respondent First Albany Corporation's Submission Agreement signed on: July 18, 1994.

Respondent Arthur T. Bernsohn's Submission Agreement signed on: June 21, 1994.

Maria J. Saulino did not file a duly executed Submission Agreement.

HEARING INFORMATION

Pre-hearing Dates/Sessions:

October 19, 1995

1 session

Hearing Dates/Sessions:	May 9, 1996	2 sessions
	May 10, 1996	2 sessions

The hearings were held at the offices of the National Association of Securities Dealers, Inc. located in New York City, New York.

CASE SUMMARY

Claimant alleged that on March 23, 1990, she opened an account with FAC because she was a personal friend of Saulino and had previously decided to use her services to invest \$180,000.00 that she had received through an inheritance. Claimant further alleged that she informed Saulino that she wanted safe and secure investments and that on April 9, 1990, she purchased \$30,000.00 of Templeton Funds Foreign Fund ("Templeton") and \$149,195.94 of Empire St. Mun. Trust ("Trust"). Claimant also alleged that following these purchases, Saulino began making a series of unauthorized trades in her account and on June 1, 1990, opened a margin account. Claimant contended that the trades included an Environdyne Inc. junk bond SR Incrsd. Rte Note-reg. 13.5% due June 15, 1996 and a Federal Home Loan Mortgage MultiClass Mtg. Partn. Ctf. Gtd. Ser 1384, CLC 7% bond due 7/15/22.

Claimant asserted that Saulino assured her that her principal was safe and did not inform her that monthly checks she was receiving were loans from the margin account and not interest payments as she was led to believe. Claimant further asserted that in March of 1993, Saulino left her employment with FAC and that Bernsohn took over the account. Claimant also asserted that in late 1993, she received a notification of a "house-call" which was the first time she became aware of problems with her margin account. Claimant contended that Bernsohn informed her that funds from both her Templeton and Trust investments were being sold to cover her margin account debts. Claimant further contended that Bernsohn told her that she had not been contacted regarding the sale of her investments because her phone number could not be found. Claimant contended that as a result of the above, she has suffered a loss for which the Respondents should be held liable.

Respondents maintained that Claimant has not fully disclosed the facts concerning her investments with FAC. Respondents further maintained that Claimant was a registered representative for five years and was well aware of the risks associated with the investments in her account. Respondents also maintained that Saulino had extensive discussions with Claimant and determined Claimant's investment goals and made recommendations consistent with her goals. Respondents contended that Claimant received the money from a lawsuit and not an inheritance, that she wanted to maximize her income, and that she requested approval to trade options. Respondents further contended that Claimant agreed with Saulino's initial investment

recommendations but quickly changed her strategy to accommodate large loans to her boyfriend. Respondents also contended that Saulino raised her concerns about the loans with Claimant, and that she was told to "mind her own business."

Respondents asserted that the Claimant does not indicate where she lost money. Respondents further asserted that Claimant withdrew over \$130,000.00 from the account and a profit and loss analysis shows that she could not have lost more than \$30,000.00. Respondents also asserted that Claimant approved of all account activity, and that as a result of the above, they should not be held liable.

RELIEF REQUESTED

Claimant requested \$108,864.77 representing loss of principal, \$30,507.77 margin interest charged, \$70,500.00 representing the amount of appreciation lost had the account been properly invested and unspecified punitive damages.

Respondents requested that the claims be dismissed in their entirety. Respondents further requested that all references to the existence of the claim be stricken from their CRD and SRO records as it was filed fraudulently. Respondents also requested that they be awarded costs and attorney's fees.

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 originals remain on file with the NASD.

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. The claims of the Claimant Jill Bookell against Arthur T. Bernsohn are denied in their entirety.
2. Respondent First Albany Corporation is liable and shall pay to the Claimant Jill Bookell \$16,500.00 in actual damages.
3. Respondent Maria J. Saulino is liable and shall pay to the Claimant Jill Bookell \$5,000.00 in actual damages.
4. The parties shall bear their respective attorney's fees and costs.

5. All other relief requests are denied.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the arbitrators have determined that the NASD shall retain the \$200.00 non-refundable filing fee previously deposited by Claimant and have assessed the following forum fees:

4 sessions x \$750.00	= \$3,000.00
1 pre-hearings session x \$300.00	= \$ 300.00
minus Claimant's \$750.00 deposit	= <u>\$ 750.00</u>
total outstanding	= \$2,550.00

Claimant Jill Boekell be and hereby is liable for the sum of \$1,650.00 representing one-half of the total amount of forum fees assessed. Claimant previously deposited \$750.00 with the NASD. Therefore, the Claimant owes the NASD a balance of \$900.00.


Respondents First Albany Corporation and Maria J. Saulino be and hereby are jointly and severally liable for the sum of \$1,650.00 representing one-half of the total amount of forum fees assessed. Therefore, First Albany Corporation and Maria J. Saulino shall pay to the National Association of Securities Dealers, Inc., \$1,650.00.

Arbitrator's Signature

Name

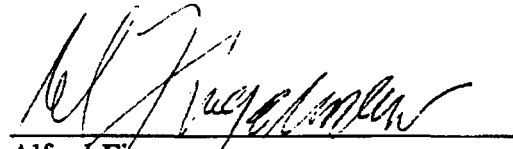

Joseph Brancalone

I, Joseph Brancalone, do hereby affirm that this is my decision in the above-captioned matter.

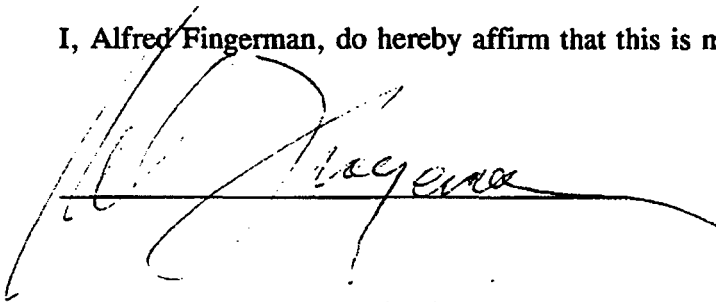

Joseph Brancalone

Date of Decision: July 12, 1996

Arbitrator's Signature
Name


Alfred Fingerman

I, Alfred Fingerman, do hereby affirm that this is my decision in the above-captioned matter.



Date of Decision: July 12, 1996