

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Akram Niroomand-Rad

94-02501

Name of Respondents

American Bond Group, Inc.
Joseph Mario Minieri

REPRESENTATION

For Claimant, Akram Niroomand-Rad ("Niroomand-Rad"): Jeffrey R. Surlas, Esq. of Jamerson, Sutton & Surlas, Coral Gables, Florida.

For Respondent, American Bond Group, Inc. ("ABG"): Aleksandr Shvarts, New York, New York.

For Respondent, Joseph Mario Minieri ("Minieri"): Edward R. Curtin, Esq. of Gersen, Savage, Kaplowitz & Curtin, New York, New York.

CASE INFORMATION

Statement of Claim filed: 6/29/94.

Claimant's Submission Agreement signed on: 6/27/94.

Respondent, Minieri, Statement of Answer filed on: 11/8/94.

Respondent, Minieri's Submission Agreement signed on: 10/31/94.

Respondent, ABG, did not file an executed Submission Agreement or an Answer as required by Sections 12 and 25 of the Code.

HEARING INFORMATION

On November 27, 1995 a Prehearing Conference lasting one session was held with one (1) arbitrator.

On December 7, 1995 a hearing consisting of two (2) session was held in Fort Lauderdale, Florida.

CASE SUMMARY

Claimant, alleged violations of federal and Florida securities law including RICO laws, unfair or deceptive trade practices, civil theft, breach of fiduciary duty, negligence, breach of contract conversion, fraud, and misrepresentation. Claimant alleged that she was talked into trading on margin; that she was an unsophisticated investor, and that the Respondents ignored her requests to sell certain investments. Claimant also alleged that Respondent, Minieri, was not registered to sell stocks in Florida and that the equities in question were not registered to be sold in Florida.

Respondent, Minieri, alleged that Claimant had prior experience with the initial public offering of the equity issue in question; that Claimant bought the same equity in another account at another brokerage house before ever buying through Respondent; that Claimant made a \$90,491.25 profit from trading in the same equity in 1992; that Claimant contacted Respondent, Minieri, unsolicited, and asked to purchase the stock in question; that a fax purported to request selling the equities in question was never received; that the equities in question were registered to be sold in Florida; that Respondent, Minieri was registered in Florida at the time he sold the equities in question. Respondent, Minieri, requested that the Statement of Claim should be dismissed.

RELIEF REQUESTED

Claimant requested compensatory damages of \$51,337.13, lost profits of \$27,750.00, punitive damages in the minimum amount of \$50,000.00, treble damages under Florida's civil theft statutes, prejudgment interest, all costs and expenses of the proceeding, attorney's fees, expenses and costs as authorized by Chapter 517 of the Florida Statutes.

Respondent, Minieri, requested the Statement of Claim be dismissed in its entirety and that Claimant should be required to pay all forum fees and Respondent's costs and expenses, including reasonable attorney's fees, incurred in connection with the defense of the proceeding.

OTHER ISSUES CONSIDERED & DECIDED

The Panel finds that Respondent, ABG, was required to file an Answer and sign a Submission Agreement pursuant to Sections 12 and 25 of the Code, Respondent, ABG, being an NASD member firm at the time the facts giving rise to the controversy occurred.

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 and post hearing submissions (if any), the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondents, ABG and Minieri, are found liable, jointly and severally, and shall pay to the Claimants the amount of \$41,295.00 plus interest to 12/7/95 in the amount of \$14,999.71 for a total amount of \$56,294.71.
- 2) Respondents, ABG and Minieri, are also jointly and severally liable for a further amount of Claimant's attorney's fees, the amount to be determined by a court of competent jurisdiction.
- 3) Claimant's requests for punitive damages, treble damages, and costs are hereby denied.
- 4) Respondent, Minieri's requests for fees, costs and attorney's fees are hereby denied.

OTHER COSTS

Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the Panel has assessed Forum Fees in the amount of \$1,800.00 (one prehearing conference @ \$300.00 plus two hearing sessions X \$750.00).

- 1) Respondents, ABG and Minieri, are hereby assessed Forum Fees in the amount of \$1,800.00, jointly and severally, \$750.00 of which shall be paid directly to the Claimant. The remaining \$1,050.00 of which shall be paid to the National Association of Securities Dealers, Inc..
- 2) Respondents, ABG and Minieri, are also jointly and severally liable for a further amount to be paid directly to Claimant for the non-refundable Filing Fee in the amount of \$200.00.
- 3) The NASD shall retain the non-refundable Filing Fee of \$200.00 paid by Claimant.

4) The NASD shall retain the hearing session deposit of \$750.00 paid by the Claimant.

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

Concurring Arbitrators' Signatures

/s/
Arthur J. Leibell, Esq., P.A.

Public/Chairperson

/s/
Donald R. McGahan

Industry/Panelist

Dissenting Arbitrator's Signature

/s/
Norman L. Weiss - Dissenting
Arbitrator Weiss dissents to this
award in its entirety.

Public/Panelist

Date of Decision: March 22, 1996