

NASD REGULATION, INC.
AWARD

In the Matter of the Arbitration Between

Name of Claimant

Allan R. Tessler

95-00384

Name of Respondent

Gruntal & Co. Inc.,

REPRESENTATION

For Claimant Allan R. Tessler ("Claimant") appeared Ronald D. Lefton, Esq. of the law offices of Camhy, Karlinsky & Stein located in New York, New York.

For Respondent Gruntal & Co., Inc. ("Respondent") appeared Evan J. Charkes, Esq., in-house counsel for Gruntal & Co., Inc. located in New York, New York.

CASE INFORMATION

Claimant's Statement of Claim was filed on January 23, 1995.
Claimant's Submission Agreement was signed on January 24, 1995.

Respondent's Statement of Answer was filed on March 28, 1995.
Respondent's Submission Agreement was signed on March 23, 1995.

HEARING INFORMATION

Hearing Dates/Sessions:	October 27, 1995	One Session
	May 15, 1998	Two Sessions

The hearings were conducted at the offices of NASD Regulation, Inc. located in New York, New York.

CASE SUMMARY

Claimant alleged that he had brokerage accounts with Respondent, a registered broker-dealer.

Claimant further alleged that since Respondent required that he guarantee the personal account of Steven Jacobson, his broker at Gruntal, Respondent violated the standards of commercial honor, just and equitable principles of trade, as well as proper and acceptable industry practice. Claimant further alleged that Respondent violated NASD Rules of Fair Practice and standard industry practices. Claimant also alleged that Respondent had notice that the guarantee terminated no later than January 31, 1993. Claimant alleged Respondent violated its fiduciary duties to him by threatening to assert claims against Claimant's account to satisfy Jacobson's obligations to Gruntal. Claimant further alleged that Respondent failed to provide him with Jacobson's account statement and to aggregate the equity in both accounts to determine compliance with margin requirements.

Respondent maintained that none of Claimant's arguments or allegations in support of a possible claim withstands scrutiny. Respondent further maintained Claimant's request for declaratory or injunctive relief was moot. Respondent maintains that the Guaranty established in favor of Jacobson was personal in nature and had nothing to do with Jacobson's responsibilities as a Gruntal employee. Respondent asserted that the Claimant agreed to guarantee the debts incurred. Respondent further asserted that there was no breach of fiduciary duties because the language of the Guaranty signed by Claimant waives any such obligation to furnish Claimant with Jacobson's account statement. Respondent asserted that it had no knowledge or notice of any limitation on Claimant's Guaranty.

RELIEF REQUESTED

Claimant requested:

- a) a declaration that any guarantee of the Jacobson Account by Claimant is terminated and that Claimant owes no further or other obligations to Respondent with respect to the Jacobson Account;
- b) directing and enjoining Respondent from selling any securities in Claimant's account to satisfy the debt of Jacobson;
- c) directing and enjoining Respondent from charging Claimant's account to satisfy the debt of Jacobson;
- d) an award of compensatory damages in an amount not yet determined; and
- e) an award of all fees, expenses, and compensation incurred in connection with this arbitration, and such other and further remedy or relief that the arbitrators deem just equitable.

Respondent requested that the Statement of Claim be dismissed in its entirety and that it be awarded the costs and disbursements of this action, including attorneys' fees and other relief that the panel deems just and proper.

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.

Respondent submitted a Motion to Amend the Answer which was considered and denied by the Panel prior to the hearing.

AWARD

After considering the pleading, the testimony, the evidence presented at the hearing and the post-hearing submissions, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claim is dismissed in its entirety.
2. All requests for attorneys' fees are hereby denied.
3. Each party shall bear their own costs.
4. All other requests are denied.

OTHER COSTS

Pursuant to Rule 10333 of the Code of Arbitration Procedure, Gruntal & Co. has paid to NASD Regulation, Inc. the \$350.00 member surcharge previously invoiced.

FORUM FEES

Pursuant to Rule 10332(c) of the NASD Regulation Code of Arbitration Procedure, the panel has determined that the NASD will retain the \$250.00 non-refundable filing fee deposited by Claimant and have assessed the following Forum Fees:

1 hearing conference (with chair) x \$300.00	= \$ 300.00
2 hearing conferences(with panel) x \$600.00	= <u>\$1,200.00</u>
Total forum fees	- = \$1,500.00

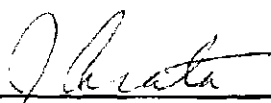
Claimant be and hereby is liable for and shall pay the sum of \$1,500.00 representing the total forum fees assessed. Claimant previously deposited \$600.00 with NASD Regulation Inc., and therefore, Claimant shall remit the \$900.00 remaining balance.

Fees are payable to NASD Regulation, Inc.

ARBITRATION PANEL

Joseph J. Arata, Esq.	-	Public Chairperson
Roger S. Smith	-	Public Arbitrator
Charles L. Henderson, Esq.	-	Industry Arbitrator


CONCURRING ARBITRATOR'S SIGNATURE



Joseph J. Arata, Esq.
Chairperson-Public Arbitrator

Date of decision: July 13, 1998

I, Joseph J. Arata, Esq., do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.




Joseph J. Arata, Esq.

ARBITRATION PANEL

Joseph J. Arata, Esq.	-	Public Chairperson
Roger S. Smith	-	Public Arbitrator
Charles L. Henderson, Esq.	-	Industry Arbitrator


CONCURRING ARBITRATOR'S SIGNATURE



Roger/S. Smith
Public Arbitrator

Date of decision: July 13, 1998

I, **Roger S. Smith**, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.



Roger S. Smith

ARBITRATION PANEL

Joseph J. Arata, Esq.	-	Public Chairperson
Roger S. Smith	-	Public Arbitrator
Charles L. Henderson, Esq.	-	Industry Arbitrator

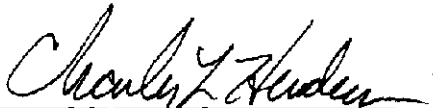
CONCURRING ARBITRATOR'S SIGNATURE



Charles L. Henderson, Esq.
Industry Arbitrator

Date of decision: July 13, 1998

I, Charles L. Henderson, Esq., do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.



Charles L. Henderson, Esq.