

NASD REGULATION AWARD

In the Matter of the Arbitration Between

Name of Claimant

Robert H. Gale

95-00667

Name of Respondents

Nicholas M. Antonelli
Stratton Oakmont, Inc.

REPRESENTATION

Claimant Robert H. Gale ("claimant") appeared pro se.

Respondent Nicholas M. Antonelli ("Antonelli") appeared pro se. Respondent Antonelli was previously represented by Gregg R. Evangelist, Esq., with law offices located in Jericho, New York.

For respondent Stratton Oakmont, Inc. ("Stratton Oakmont") appeared Gregg R. Evangelist, Esq., with law offices located in Jericho, New York. All matters concerning Stratton Oakmont were stayed prior to the hearing and, therefore, no representative appeared at the hearing on behalf of Stratton Oakmont.

CASE INFORMATION

Claimant's Statement of Claim was filed on February 9, 1995. Claimant's Submission Agreements were signed on February 3, 1995 and July 3, 1997.

Respondent's Joint Statement of Answer was filed on April 12, 1995. Respondent Antonelli's Submission Agreement was signed on March 2, 1995. Respondent Stratton Oakmont did not submit a Submission Agreement.

HEARING INFORMATION

Pre-hearing Conferences:	July 1, 1997	-	One Session
	August 22, 1997	-	One Session
Hearing Date/Sessions:	September 10, 1997	-	Two Sessions

The pre-hearing conferences were conducted telephonically. The hearing was conducted at the offices of NASD Regulation, Inc., located in New York, New York.

CASE SUMMARY

Claimant alleged that respondent Antonelli manipulated and misrepresented material facts, used high-pressure sales tactics and laudatory language, and made unfounded price predictions. Claimant also alleged that respondent Antonelli fraudulently induced him to buy and sell stocks and wrongfully bought and sold stocks at unauthorized prices. Claimant further alleged breach of fiduciary duty.

Respondents generally denied all of the allegations set forth in the Statement of Claim. Respondents maintained that the Statement of Claim failed to state a cause upon which relief can be granted. Respondents also maintained that claimant knowingly, willingly and voluntarily assumed the risks of investing in the market and that claimant, through his conduct, approved, authorized and ratified respondents' actions.

RELIEF REQUESTED

Claimant requested damages of \$9,999.00, filing fees, and such other further relief as the arbitrator may deem just and proper.

Respondents requested the Statement of Claim be dismissed in its entirety.

OTHER ISSUES CONSIDERED & DECIDED

Pursuant to an Order of the United States District Court for the Southern District of New York all matters concerning Stratton Oakmont, Inc. were indefinitely stayed.

Claimant made a motion to strike the respondents' Statement of Answer. This motion was considered by the arbitrator and was denied.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. All claims against respondent Antonelli are hereby dismissed in their entirety.
2. Each party shall bear their respective costs, including attorneys' fees.
3. All other requests for relief are hereby denied.

FORUM FEES


Pursuant to Rule 10332(c) of the Code of Arbitration Procedure, the arbitrator has determined that NASD Regulation, Inc. shall retain the \$75.00 non-refundable filing fee previously paid by claimant and has assessed the following forum fees:

2 pre-hearing conferences x \$300.00	= \$ 600.00
2 hearing sessions x \$300.00	= <u>\$ 600.00</u>
Total forum fees	= \$1,200.00

Respondent Antonelli be and hereby is liable and shall pay the sum of \$1,200.00, representing the total amount of forum fees assessed.

Fees are payable to NASD Regulation, Inc.

Arbitrator's Signature



Jeffrey S. Eisenberg, Esq.
Public Arbitrator

Date of Decision: October 17, 1997

I, Jeffrey S. Eisenberg, Esq., do hereby affirm, pursuant to Article 7507 of the Civil Practice Laws and Rules, that I am the individual described herein and who executed this instrument which is my award.



Jeffrey S. Eisenberg, Esq.