

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Mark Okun

95-01315

Name of Respondents

David Markel  
Stratton Oakmont, Inc

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**CASE SUMMARY**

In a claim filed with the National Association of Securities Dealers, Inc. on March 14, 1995, Claimant Mark Okun ("Claimant"), who appeared Pro Se, alleged that he purchased shares of Dr. Pepper Beverages in the Summer of 1994, pursuant to the investment advice of Respondents David Markel ("Markel") and Stratton Oakmont, Inc. ("SOI"). Claimant further alleged that he purchased 3000 shares of Select Media on October 25, 1994, and 2000 shares of Select Media on November 4, 1994, pursuant to Respondents' investment advice. Claimant contended that Respondents initially lied to him regarding a minimum investment of \$50,000 required for the Select Media investment. Claimant further contended that Respondents failed to fulfill their promise to restrict Claimant's potential loss in the Select Media transaction to \$1,000.00 by agreeing to sell these shares if they fell 1/4 point. Claimant alleged that Respondents constantly harassed him when Select Media shares fell more than 1/4, and Claimant expressed his intention to transfer his account to another broker. Claimant further alleged that as a result of the above, he has suffered a loss for which the Respondents should be held liable.

Respondents David Markel and Stratton Oakmont, Inc., through their representative and counsel, Gregg Evangelist, Esq., of Orem & Evangelist, located in Jericho, NY, maintained that all risks inherent in investing in the disputed securities were fully explained to Claimant, who voluntarily assumed these risks. Respondents further maintained that they discharged their responsibilities to Claimant in a professional and ethical manner, and that their actions were within the parameters of accepted brokerage procedure, and all exchange and governmental regulations. Respondents contended that Claimant, through his conduct, approved, authorized and ratified Respondents' actions. Respondents further contended that Claimant intentionally inserted "extraneous" materials into the arbitration process, and so Respondents motion to strike these prejudicial, non-probative references prior to the ultimate designation of the panel who will decide this claim. Respondents alleged that as a result of the above, they should not be held liable.

**RELIEF REQUESTED**

Claimant Mark Okun, requested \$4,155.00 in actual damages.

Respondents David Markel and Stratton Oakmont, Inc., requested that the claims of the Claimant be dismissed in their entirety.

**OTHER ISSUES CONSIDERED AND DECIDED**

The arbitrator considered and reviewed all documentary submissions submitted by the parties concerning Claimant's Motion to Strike the Respondents' Answer. The arbitrator denied the motion.

The arbitrator considered and reviewed all documentary submissions submitted by the parties concerning the Respondents' Motion to Strike prejudicial, non-probative references prior to the decision. The arbitrator denied the motion.

**AWARD**

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, David Fogel, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Mark Okun, on February 28, 1995, and by the Respondents David Markel and Stratton Oakmont, Inc., on May 11, 1995.

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. The claims of the Claimant Mark Okun, against Respondents David Markel and Stratton Oakmont, Inc., are denied in their entirety.
2. The parties shall bear their respective costs.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Mark Okun, shall be retained by the NASD, Inc.
4. All other relief requests are denied.

**AFFIRMATION**

I, **DAVID FOGEL, ESQ.**, do hereby affirm, pursuant to Article 7507 of the Civil Procedure Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.



David Fogel, Esq.

DATE OF DECISION: February 14, 1996