

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

John L. Walker

95-01623

Names of Respondents

M. Rimson & Company, Inc.
Alex D. Shindman
Moshe Rimson

REPRESENTATION

For Claimant: John L. Walker: pro se.

For Respondent, Alex D. Shindman: David H. Jarvis, Esq. of the law firm of Singer, Bienenstock, Zamansky, Ogele & Selengut, L.L.P., New York, N.Y.

Respondents, M. Rimson & Company, Inc. and Moshe Rimson: pro se.

CASE INFORMATION

Statement of Claim filed: March 31, 1995.

Claimant's Submission Agreement signed on: March 29, 1995.

Joint Statement of Answer filed by Respondents on: July 7, 1995.

The Respondents did not execute submission agreements as required pursuant to Section 10302 of the Code of Arbitration Procedure.

HEARING INFORMATION

Two telephone conferences were conducted in this matter on March 14, 1996 and September 12, 1996.

CASE SUMMARY

Claimant alleged that on August 25, 1993 he purchased 500 shares of common stock in a company called ADT after receiving a telephone solicitation from Alex Shindman, an account executive at M. Rimson & Company, Inc. Claimant next alleged that he paid \$5,129.35 for the stock including commissions. Claimant next alleged that on February 8, 1995 he learned that the shares of stock had been sold sometime in 1994 and the proceeds were used to purchase shares of stock in a company known as INFOCALL Communication Corporation ("INFOCALL"). Claimant next alleged that the sale and purchase were not authorized by him and he did not receive confirmations for the sale of ADT or the purchase of INFOCALL. Claimant next alleged that he had not received a quarterly statement from M. Rimson & Company, Inc. since September of 1993.

Respondents denied the allegations of unauthorized trading and misappropriation and maintained that the Claimant was a sophisticated high net worth investor with prior market experience in stocks and other securities. Respondents next maintained that when the account was opened, Respondent Alexander Shindman engaged in discussions with Claimant and obtained from him his investment objectives and information regarding his prior investment and business activities. Respondents next maintained that all transactions executed by Respondents for the Claimant's account, specifically the sale of ADT stock and subsequent purchase of INFOCALL stock, were based upon the Claimant's authorization and instructions made by him to Respondents and after reasonable recommendations by Respondents. Respondents next maintained that the subject investments were suitable for Claimant and Claimant understood and accepted all risks attendant thereto. Respondents next maintained that Claimant knowingly entered into and authorized each and every transaction, Claimant had significant financial means to bear the losses which he incurred and Claimant improperly seeks to shift responsibility for his monetary losses to Respondents.

RELIEF REQUESTED

Claimant requested that the arbitrator award him his 500 shares of stock in ADT plus the commissions needed to repurchase the shares or the monetary equivalent of 500 shares of stock of ADT.

Respondents requested a dismissal of the arbitration, with prejudice, plus costs, expenses and attorneys' fees and such other and further relief as the arbitrator deemed just and proper.

AWARD

The undersigned Arbitrator having considered the proof of the parties, has decided in full and final resolution of the issues submitted for determination as follows:

1. The Respondents are liable, jointly and severally, and shall pay to the Claimant the sum of \$5,099.35 plus simple interest at the rate of 12% per annum from January 1, 1995 until the date of payment of the award.

2. The Respondents are liable, jointly and severally, and shall pay to the Claimant the sum of \$275.00 representing reimbursement of the fees previously paid to the NASD by the Claimant.

FEES

Pursuant to Section 10302 of the Code of Arbitration Procedure, the Arbitrator has assessed fees in the sum of \$300.00 (one (1) telephone conference X \$300.00).

1. Respondents are assessed, jointly and severally, the sum of \$300.00 for which the NASD shall retain the \$200.00 previously deposited by the Claimant in partial satisfaction thereof leaving a balance due to the NASD of \$100.00.
2. The Respondent M. Rimson & Company, Inc. is assessed the sum of \$100.00 representing the member surcharge pursuant to Section 10333 of the Code of Arbitration Procedure.
3. The NASD shall retain the \$75.00 non-refundable filing fee previously paid by the Claimant to the NASD.

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

ARBITRATOR

Arbitrator's Signature



Steven Goerke, Esq.
(Sole Public Arbitrator)

Date of Decision: 10/4/96