

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Michael Batlan

95-03285

Name of Respondents

AFM Investments, Inc.
Louis G. Scatigna
Christopher Faustmann

REPRESENTATION

For Michael Batlan ("Batlan") appeared Robert I. Rabinowitz, Esq., located in Red Bank, New Jersey.

For Respondents AFM Investments, Inc. ("AFM") and Louis G. Scatigna ("Scatigna") appeared Jerome M. Selvers, Esq. of the law firm of Sonnenblick, Parker & Selvers located in Freehold, New Jersey.

CASE INFORMATION

A Statement of Claim was filed on June 6, 1995.

Claimant's Submission Agreement was signed on July 6, 1995.

A Joint Statement of Answer and Third Party Claim was filed by Respondents AFM Investments, Inc. and Louis G. Scatigna on August 28, 1995.

Respondent AFM Investments, Inc.'s Submission Agreement was signed on August 3, 1995.

Respondent Louis G. Scatigna's Submission Agreement was signed on August 3, 1995.

Christopher Faustmann's Answer to the Third-Party Claim was filed on February 23, 1996.

HEARING INFORMATION

Pre-hearing Conference: July 19, 1996 - 1 Session

Hearing Dates/Sessions: October 28, 1996 - 2 Sessions
December 2, 1996 - 2 Sessions

The hearing was held at the offices of the National Association of Securities Dealers Regulation, Inc. located in New York City, New York.

CASE SUMMARY

Claimant alleged that respondents induced him to invest in highly speculative, manipulated and tightly controlled penny stocks traded on the Vancouver Stock Exchange by respondent member firm whose management embarked upon a scheme to defraud Claimant out of investment funds. Claimant further alleged that fraud, manipulation, self-dealing and breach of fiduciary duty in the way that his account was mishandled by AFM Investments by surreptitiously utilizing untrained, novice brokers to bilk customers.

As a result, Claimant sought rescission of all transactions engaged in through AFM Investments, namely Rick Minerals Corp., Navarre Resources Corp., Athlone Resources, Ltd., Score Athletic Products, Inc. and other very speculative securities. Claimant alleged that he is entitled to recover compensatory and punitive damages from Respondents as a result of various violations of federal and state securities laws, breach of fiduciary duties, false representations and negligence.

Respondents denied all allegations of wrongdoing asserted by the claimant. Respondents maintained that AFM did not make markets in, nor have any inventory in, any of the securities purchased by Claimant. AFM acted as agent and charged discounted commissions on each transaction. Faustmann, an employee of AFM, and a friend of the claimant, recommended the purchase of the stocks to clients who preferred aggressive speculation and a Suitability Agreement indicating the client's knowledge that the security was speculative in nature. Respondents further maintained that they never guaranteed any results on any investments and had no reason to try to prevent claimant from selling any of his stock positions.

As a Third-Party claim, respondents alleged that Christopher Faustmann was the account executive at AFM Investments, Inc. responsible for Claimant's account. Respondents further alleged that various securities sold to claimant by Faustmann were unsuitable as a result of which claimant incurred losses. Respondent also alleged that in the event claimant suffered any losses not as a result of claimant's own conduct, then such losses would have resulted from Faustmann's improper conduct and not that of AFM or Scatigna.

Third-Party Respondent Faustmann denied all allegations asserted in the Third-Party Claim. Faustmann maintained that as a direct result of AFM Investments and Scatigna's fraudulent activity claimant claims losses through investments recommended by AFM Investments, Inc. and Scatigna. Faustmann maintained that all actions that he took were done at the direct instruction of respondents, and that respondents were aware that Faustmann was relying upon them extensively due to his lack of experience in the securities industry.

RELIEF REQUESTED

Claimant requested that the panel render an award as follows:

1. Compensatory damages in the amount of \$32,883,00;
2. For interest on the total amount invested;
3. Attorneys' fees;
4. Costs associated with this proceeding;
5. An award of punitive damages; and

6. Referral to the District Business Conduct Committee for appropriate action against Respondents.

Respondents requested dismissal of the Statement of Claim.

Third-Party Respondent requested that the panel dismiss the Third-Party Claim and award him the costs that he will incur in defending this claim including attorneys' fees, interest, and other relief as the Arbitrators deem just and equitable.

AWARD

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

1. Claimants claims against respondents be and hereby are denied;
2. Respondents claims against Third-Party Respondent be and hereby are denied;
3. All other claims be and hereby are denied;
4. Each party shall bear their respective costs, including attorneys' fees, except that Third-Party Respondent Faustmann be and hereby is liable and shall reimburse claimant the sum of \$400.00 representing the hearing session deposit previously deposited with NASD Regulation, Inc. and shall reimburse to Respondent AFM Investments, Inc. the sum of \$600.00 representing the hearing session deposit previously deposited with NASD Regulation, Inc.

FORUM FEES

1 prehearing session x \$300.00	= \$ 300.00
4 hearing sessions x \$600.00	= \$2400.00
Total Outstanding Forum fees	= \$2700.00 - \$1000.00 = \$1700.00

Third-Party Respondent Faustmann be and hereby is liable and shall pay to NASD Regulation, Inc. the sum of \$1,700.00 representing outstanding forum fees assessed against him by the arbitration panel in connection with the above referenced arbitration.

Concurring Arbitrators' Signatures

Diane Getzler, Esq.
Public Arbitrator - Chairperson

Edward M. Miller
Public Arbitrator

Richard S. Peskin, Esq.
Industry Arbitrator

I, **Diane Getzler, Esq.**, do hereby affirm pursuant to Article 7507 of the Civil Practice Law and Rules that this is my decision in the above referenced matter.

Richard S. Peskin, Esq.

Date of Decision: January 24, 1997