

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Andreu Work Out Wear Inc.

95-03551

Name of Respondent

Rickel & Associates Inc.
Brian Mihok
Wolf Financial Group, Inc.

REPRESENTATION

Claimant Andreu Work Out Wear, Inc. acted pro se.

For Respondent Rickel & Associates, Inc. ("Rickel"): Vincent P. Sarnatora, Senior Vice President, Director of Compliance, Rickel, New York, New York, filed an Answer to the Statement of Claim.

Respondents Wolf Financial Group, Inc. ("Wolf") and Brian Mihok ("Mihok") were unrepresented at the hearing (see "Other Issues").

CASE INFORMATION

Statement of Claim filed: July 24, 1995.

Claimant's Submission Agreement signed on: August 2, 1995, by Barbara Andreu Camilleri, on behalf of Andreu.

Statement of Answer filed by Respondent Rickel on: September 18, 1995.

Respondent Rickel's Submission Agreement signed on: September 8, 1995.

Respondents Wolf and Mihok failed to file an Answer and to sign Submission Agreements as required by Sections 12 and 25 of the Code of Arbitration Procedure (the "Code").

HEARING INFORMATION

On March 25, 1996, in Fort Lauderdale, Florida, a hearing lasting one (1) session was conducted.

CASE SUMMARY

Claimant Andreu alleged that it invested the company's profit sharing funds, a total of \$40,000.00, with Respondent Wolf in October 1993 and that Wolf subsequently became Rickel. During the twelve months that the account was open and being handled first by an account representative and then by the representative's supervisor, Respondent Mihok, the account suffered a loss of \$25,900.00. The balance in the account was \$14,100.00 at the end of this period.

Claimant claimed that the loss it suffered was due to Mihok's making unsuitable investments in its behalf, including penny stocks and other over-the-counter stocks not traded on an established exchange. Claimant also alleged that because of these unsuitable investments, Respondents breached their fiduciary duties to Claimant and also made material misrepresentations and omissions to Claimant.

Respondent Rickel alleged that Rickel is not and was not ever formerly known as Wolf nor is Rickel the successor in interest of Wolf. It further alleged that at the time the account was opened at Wolf by Claimant, it was opened as a corporate account and never titled nor represented as a profit sharing account of that corporation.

RELIEF REQUESTED

Claimant Andreu requested compensatory damages in the amount of its loss of \$25,900.00.

Respondent Rickel requested that it be dismissed from the Arbitration.

OTHER ISSUES

1. Bankruptcy Court Stay

On August 15, 1995, Shmuel Vasser of the Law Offices of Salomon Green & Ostrow, P.C., of New York, New York, advised the NASD by letter that on August 24, 1994, F.N. Wolf & Co., Inc., ("FNW") filed a voluntary petition under chapter 11 of the Bankruptcy Code in the Bankruptcy Court for the Southern District of New York, case no. 94 B 44010 (JLG). The letter further advised that pursuant to section 362(a) of the Bankruptcy Code the Arbitration was stayed as against FNW. In addition, Mr. Vasser

informed the NASD that on August 9, 1995, the Bankruptcy Court issued a temporary restraining order ("TRO") enjoining the continuation of all legal actions pending against Respondent Mihok. On April 9, 1996, FNW's Bankruptcy counsel, Lisa Golden, informed the NASD by telephone that the TRO against Mihok had expired and not been renewed, but that the Arbitration was still stayed as to Wolf.

2. On June 20, 1996, after the hearing in this matter but before the award was rendered the NASD received from Robert Koppelman, Esq., counsel for Bryon Mihok, a copy of an order from the United States Bankruptcy Court, Middle District of Florida-Jacksonville Division. The order stated that Bryan Mihok has been released from all debts accruing prior to September 22, 1995 and all purported creditors whose debts are so discharged are enjoined from initiating or continuing any action or employing any process or engaging in any act to collect such debts as personal liabilities of Mr. Mihok.

3. Non-Appearance of Respondents

Respondents Mihok and Wolf Financial Group, Inc. were not present at the hearing.

AWARD

After considering the pleadings, the testimony, the evidence presented at the hearing as well as the Items provided in the "Other Issues" section above, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents Rickel is found liable and shall pay to the Claimant Andreu the amount of \$401.84, inclusive of interest.

OTHER COSTS

The parties shall each bear all costs and expenses incurred by them in connection with this proceeding.

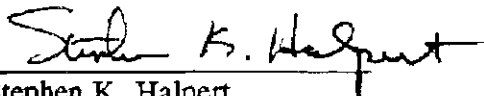
FORUM FEES

1. Pursuant to Section 43(c) of the Code, the Arbitrator has assessed forum fees in the amount of \$300.00 (1 hearing session x \$300.00).
2. Claimant is hereby assessed \$150.00 for which the NASD shall retain the \$300.00 previously deposited in full satisfaction thereof.
3. Respondent Rickel is hereby assessed \$150.00 payable directly to Claimant as reimbursement for one-half of Claimant's hearing session deposit.

5. The NASD shall retain the non-refundable filing fee of \$100.00 paid by Claimant.

ARBITRATOR

Arbitrator's Signature


Stephen K. Halpert