

NASD REGULATION, INC.  
AWARD

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In the Matter of the Arbitration Between

Name of Claimants

Erol and Ayten Cannoyan

96-00135

Name of Respondents

PaineWebber, Inc.  
Gruntal & Co., Inc.  
Stephen McDermott  
Fatih Cannoyan

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**REPRESENTATION**

For Claimants Erol and Ayten Cannoyan ("Claimants") appeared Charles R. Van de Walle, Esq., of the law firm Martin, Van de Walle, Donohue, McGahan & Catalano, located in Jericho, New York.

For Respondent PaineWebber, Inc. ("PaineWebber") appeared David W. Schmidt of the law firm Lubiner & Schmidt, located in Kenilworth, New Jersey.

For Respondent Gruntal & Co., Inc. ("Gruntal") appeared Harry D. Frisch, Esq., Assistant General Counsel for Gruntal & Co., Inc. located in New York, New York.

For Respondent Stephen McDermott ("McDermott") appeared Francis X. Stone, Esq., Attorney at Law, with offices located in Boston, Massachusetts.

Third Party Respondent Fatih Cannoyan ("Cannoyan") did not enter an appearance in this matter.

**CASE INFORMATION**

Statement of Claim was filed on December 29, 1995.

Claimants' Reply to the Counterclaims of PaineWebber and Gruntal was filed on April 15, 1996.  
Claimants' Submission Agreement was signed on January 5, 1996.

Statement of Answer and Counterclaim was filed by Respondent PaineWebber on March 15, 1996.



McDermott did not file an answer to the allegations contained in the Statement of Claim.

Cannoyan did not file an answer to the allegations contained in the Third Party Statement of Claim.

### **RELIEF REQUESTED**

Claimants requested damages in the amount of \$58,160.00, together interest, attorneys' fees, expert fees, costs, and pre-award interest.

PaineWebber requested that the Statement of Claim be dismissed in its entirety and that they be awarded attorneys' fees and costs.

PaineWebber, in its Counterclaim, requested damages in the amount of \$75,000.00, together with interest, and reasonable attorneys' fees.

Gruntal requested that the Statement of Claim be dismissed in its entirety, or that the panel impose liability on Claimants and/or Cannoyan in an amount equal to any liability imposed on it. Gruntal further requested that all costs be assessed against Claimants and/or Cannoyan.

McDermott did not file a Statement of Answer.

Cannoyan did not file a Statement of Answer.

### **OTHER ISSUES CONSIDERED & DECIDED**

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the Award while the original remains on file with the NASD.

Claimants, by letter dated November 14, 1997, indicated that they had settled all claims against PaineWebber, Gruntal and McDermott. Therefore, only the claims of Gruntal against Cannoyan were heard by the panel.

The panel made the following determinations concerning Cannoyan, who did not file a Statement of Answer and a Submission Agreement and did not appear at the hearing in this matter:

1. Pursuant to Rule 10101 of the Code of Arbitration Procedure (the "Code"), the panel found subject matter jurisdiction over this entire controversy.
2. The panel found that Cannoyan was a customer of a member of the NASD at the time this controversy arose. Accordingly, the panel found personal jurisdiction over Cannoyan pursuant to Rules 10201 and 10301 of the Code.
3. The panel found that Cannoyan was required to file a Statement of Answer and a Submission Agreement with NASD Regulation pursuant to Rule 10314(b) of the

Code. In this regard, the panel found that the Third Party Statement of Claim was properly served upon Cannoyan pursuant to Rule 10314(a) of the Code.

4. In addition, in accordance with Rules 10310, 10315 and 10318 of the Code, the panel found that NASD Regulation provided Cannoyan with "due notice" of the hearings conducted in this matter by regular and certified mail. The panel further determined to proceed with the hearing without Cannoyan whose absence was unexcused.

### **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. Gruntal's claims against Cannoyan are hereby denied.
2. All other requests for relief are hereby denied.

### **FORUM FEES**

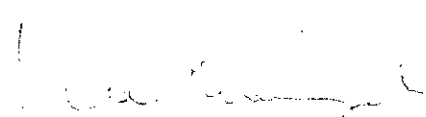
Pursuant to Rule 10332(c) of the Code, the arbitrators have determined that the NASD will retain the \$150.00 non-refundable filing fee paid by Claimants, the \$500.00 non-refundable filing fee and \$300.00 member surcharge paid by PaineWebber, and the \$500.00 non-refundable filing fee and \$300.00 member surcharge paid by Gruntal. The arbitrators further determined that pursuant to Rule 10332(f), the NASD will retain all hearing session deposits paid by Claimants, PaineWebber and Gruntal. The arbitrators have assessed the following Forum Fees:

1 Pre-hearing conference x \$300.00	=	\$300.00
1 Hearing session x \$600.00	=	<u>\$600.00</u>
Total Forum Fees	=	\$900.00

1. Gruntal be and hereby is liable for the sum of \$900.00, representing the total forum fees assessed. Gruntal previously deposited \$600.00 with NASD Regulation, Inc., and, therefore, is liable and shall pay the \$300.00 balance owed.

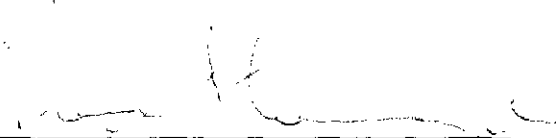
Fees are payable to NASD Regulation, Inc.

ARBITRATORS' SIGNATURES

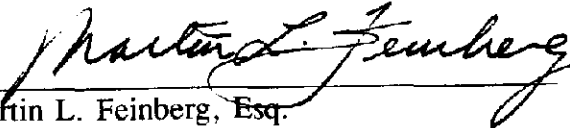
  
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Fred Shinagel  
Industry Arbitrator

Date of decision: May 15, 1998

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

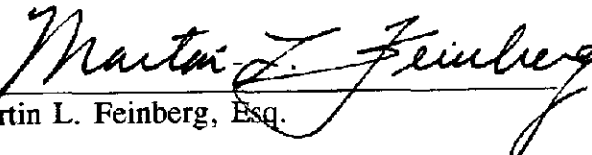
  
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Fred Shinagel

ARBITRATORS' SIGNATURES

  
Martin L. Feinberg, Esq.  
Public Arbitrator

Date of decision: May 15, 1998

I, **Martin L. Feinberg, Esq.**, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

  
Martin L. Feinberg, Esq.

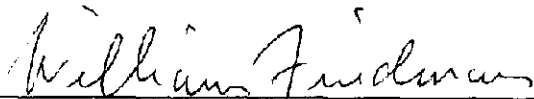
**ARBITRATORS' SIGNATURES**



William Friedman, Esq.  
Chairperson - Public Arbitrator

Date of decision: May 15, 1998

I, **William Friedman, Esq.**, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.



William Friedman, Esq.