

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Frank A. Pansini

96-01074

Name of Respondent

Donald & Co. Securities Inc.
Harold Eugene Stice
Anthony Potecorvo
Raymond Levitzki
Stephen West
Stephen Allan Blum
Jack Guerriero
Paul Favata

REPRESENTATION

For Claimant, Frank A. Pansini, appeared Lisa Ann Enoch, Esq., sole practioner located in Chappaqua, New York.

For Respondents, Donald & Co. Securities Inc., Harold Eugene Stice, Anthony Potecorvo, Raymond Levitzki, Stephen West, Stephen Allan Blum and Paul Favata, appeared Kenneth A. Elan, Esq., sole practioner, located in New York, New York.

For Respondent, Jack Guerriero, appeared Roy Kurnos, Esq., from the law firm of Belsole & Kurnos, Morristown, New Jersey.

CASE INFORMATION

Statement of Claim filed: Feb 21, 1996

Claimant's Submission Agreement signed on: March 1, 1996

Joint Statement of Answer filed by Respondents, Donald & Co. Securities Inc., Harold Eugene Stice, Anthony Potecorvo, Raymond Levitzki, Stephen West, Stephen Allan Blum and Paul Favata, on: April 22, 1996

Amended Joint Statement of Answer and Cross Claim filed by Respondents, Donald & Co. Securities Inc., Harold Eugene Stice, Anthony Potecorvo, Raymond Levitzki, Stephen West, Stephen Allan Blum and Paul Favata, on: September 17, 1996

Respondents, Donald & Co. Securities Inc., Harold Eugene Stice, Anthony Potecorvo, Raymond Levitzki, and Stephen West's Submission Agreements signed on: April 24, 1996

Respondents, Stephen Allan Blum and Paul Favata's, Submission Agreements, signed on: April 25, 1996

Statement of Answer filed by Respondent, Jack Guerriero on September 6, 1996

Respondent, Guerriero, did not execute a Submission Agreement as required by Rule 10314(b) [formerly Section 25(b)] of the Code of Arbitration Procedure.

HEARING INFORMATION

Pre-Hearing Conferences:	October 23, 1996	(1 Sessions)
	November 20, 1996	(1 Session)
Hearing Dates/Sessions:	November 21, 1996	(2 Sessions)
	November 22, 1996	(2 Sessions)

CASE SUMMARY

Claimant alleged that in July, 1993, he was an unemployed, recent college graduate, who was an unsophisticated investor with limited investment experience. Claimant alleged that his only securities account was held at A.S. Goldmen & Co. Inc., and that his financial advisor was Respondent, Jack Guerriero ("Guerriero"). Claimant further alleged that he transferred his account to Donald & Co. when Guerriero left the employ of A.S. Goldmen and began working for Donald & Co. in early 1993.

Claimant alleged that in July, 1993, Guerriero fraudulently induced him to purchase 10,000 units of Internatural Waters and Beverages Corp ("IBEV") by guaranteeing a 25% return on the investment within a one or two week period. Claimant alleged that when he advised Guerriero that he was not in the financial position to make such an investment Guerriero assured Claimant of the 25% return and suggested that Claimant borrow the money to make the investment.

Claimant alleged that based on Guerriero's advice and guarantee, he borrowed \$62,500.00, and through Guerriero, purchase 10,000 units of IBEV, which were comprised of 20,000 shares of IBEV stock and 10,000 warrants, at \$6.25 per unit. Claimant alleged that after the purchase the IBEV units began a steep and immediate decline. Claimant alleged that Guerriero subsequently left Donald & Co. and that Respondent, Paul Favata became Claimant's new financial advisor.

Claimant alleged that on August 6, 1993, he sold the 10,000 IBEV warrants for \$0.7725 per warrant. Claimant further alleged that in September 1993, he instructed Favata to sell his 20,000 shares of IBEV at 3 1/8 for \$62,500. Claimant alleged, however, that Favata refused to execute Claimant's order and admitted to Claimant that the sale of his shares would cause the price of the stock to fall precipitously and therefore, he would "not allow" the sale.

Claimant alleged that as of February 21, 1996, IBEV is unlisted, but the bid/ask is \$0.04/\$0.09.

Donald & Co. Securities Inc., Harold Eugene Stice, Anthony Potecorvo, Raymond Levitzki, Stephen West, Stephen Allan Blum and Paul Favata (collectively referred to as "Respondents"), maintained that no Respondent ever guaranteed Claimant a 25% return on his investment, made any other representation to Claimant or suggested that Claimant borrow money to purchase securities. Respondents maintained that Claimant's own reckless conduct in borrowing money to purchase highly speculative securities cannot be imputed on Respondents.

Respondents alleged that the cover of the IBEV prospectus and the pages entitled "Risk Factors" made clear to any prospective investor that an investment in such securities was highly speculative and that an investor should consider all the risk involved. Respondents maintained that Claimant did not read the prospectus or choose to ignore the warning, and that in either case Respondents should not be held liable for Claimant's negligence.

Respondents further alleged that with the exception of Respondents, Guerriero and Favata, no one else had dealings with of any kind with the Claimant and, therefore, cannot be held liable.

On cross-claim Respondents alleged that it is the acts of Guerriero that are the subject of this complaint and therefore, requested an award over and against Guerriero if any of the Respondents are held liable to Claimant.

Respondent, Guerriero, maintained that Claimant purchased speculative securities in prior dealings with Guerriero and that Claimant knew the risks involved in the investment which are the subject of this complaint. Guerriero maintained that he provided Claimant with a prospectus that informed the Claimant of the risks associated with this investment.

Guerriero maintained that Claimant stated that he had a long history of investments in speculative issues, that he invested in other speculative issues with other brokers, that he was experienced and that he had the where-with-all to withstand losses if they occurred.

Guerriero maintained that he informed Claimant of all the risks involved with the investment and complied with all the duties owed to Claimant.

RELIEF REQUESTED

Claimant requested:

1. Actual damages of \$70,405.00 (initial investment, plus 25% return, less total return on the sale of IBEV warrants);
2. Lost opportunities; nine percent statutory interest on initial investment plus a 25% return, less the total return on the sale of the warrants, compounded annually from July 1993 to date of the award;
3. Punitive damages in the amount of \$500,000.00;
4. Return of commissions, fees and/or mark downs earned by Donald & Co. and/or Guerriero and/or Favata and paid by Pansini for the IBEV purchase;
5. Filing fees, disbursements, expenses, attorneys' fees and other costs to pursue this matter;
6. Income tax liability incidental to the award; and,
7. Such other relief as the Panel deems just, proper and appropriate.

Donald & Co. Securities Inc., Harold Eugene Stice, Anthony Potecorvo, Raymond Levitzki, Stephen West, Stephen Allan Blum and Paul Favata requested:

1. All claims asserted by Claimant be dismissed in their entirety;

2. Attorneys' fees, costs and sanctions against Claimant and his attorney, jointly and severally; and,
3. An award over and against Guerriero in the event that any of the Respondents are found liable to the Claimant.

Jack Guerriero requested:

1. All claims be dismissed in their entirety; and
2. Attorneys' fees and costs.

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 originals remain on file with the NASD.

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. Respondents, Donald & Co., Inc., and Stephen Blum are jointly and severally liable, and shall pay to the Claimant, Frank Pansini, the sum of \$32,800.00, inclusive of interest to the date of the award;
2. Respondents, Donald & Co., Inc., Paul Favata and Jack Guerriero, are jointly and severally liable, and shall pay to the Claimant, Frank Pansini, the sum of \$3,125.00, inclusive of interest to the date of the award;
3. All claims against Respondents, Harold Stice, Anthony Potecorvo, Raymond Levitzki, and Stephen West are dismissed; and,
4. All other claims are dismissed in their entirety.

FORUM FEES

Pursuant to Rule 10332 [formerly, Section 43(c)] of the Code of Arbitration Procedure, the following Forum Fee are assessed:

Pre-Hearing Conference Fees:	\$ 600.00
Hearing Session Fees:	\$4000.00
Total Forum Fees:	\$4600.00

Respondent, Donald & Co., Inc., is assessed the sum of \$4,600.00 representing the total forum fees assessed by the Panel. Respondent, Donald & Co., Inc., is liable and shall pay to the NASD the sum of \$4,600.00.

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

ARBITRATORS' SIGNATURES

James Dolan, Esq.
Public Chairperson

Vinita Juneja
Industry Arbitrator

Madelon M. Rosenfeld, Esq.
Public Arbitrator

Date of Decision: _____

I, James Dolan, Esq., do hereby affirm, pursuant to Article 7505 of the Civil Practice Law and Rules, that this is my decision in the above captioned matter.

James Dolan, Esq.

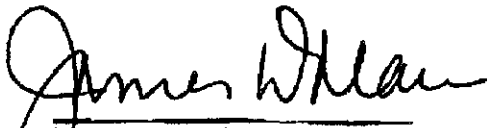
I, Vinita Juneja, do hereby affirm, pursuant to Article 7505 of the Civil Practice Law and Rules, that this is my decision in the above captioned matter.

Vinita Juneja

I, Madelon M. Rosenfeld, Esq., do hereby affirm, pursuant to Article 7505 of the Civil Practice Law and Rules, that this is my decision in the above captioned matter.

Madelon M. Rosenfeld, Esq.

ARBITRATORS' SIGNATURES

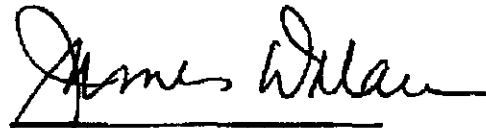

James Dolan, Esq.
Public Chairperson


Vinita Juneja
Industry Arbitrator


Madelon M. Rosenfeld, Esq.
Public Arbitrator

Date of Decision: February 10, 1997

I, **James Dolan, Esq.**, do hereby affirm, pursuant to Article 7505 of the Civil Practice Law and Rules, that this is my decision in the above captioned matter.


James Dolan, Esq.

I, **Vinita Juneja**, do hereby affirm, pursuant to Article 7505 of the Civil Practice Law and Rules, that this is my decision in the above captioned matter.


Vinita Juneja

I, **Madelon M. Rosenfeld, Esq.**, do hereby affirm, pursuant to Article 7505 of the Civil Practice Law and Rules, that this is my decision in the above captioned matter.


Madelon M. Rosenfeld, Esq.

I, James Dolan, Esq., do hereby affirm, pursuant to Article 7505 of the Civil Practice Law and Rules, that this is my decision in the above captioned matter.

James Dolan, Esq.

I, Vinita Juneja, do hereby affirm, pursuant to Article 7505 of the Civil Practice Law and Rules, that this is my decision in the above captioned matter.

Vinita Juneja

I, Madelon M. Rosenfeld, Esq., do hereby affirm, pursuant to Article 7505 of the Civil Practice Law and Rules, that this is my decision in the above captioned matter.

Madelon M. Rosenfeld, Esq.
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ARBITRATORS' SIGNATURES

James Dolan, Esq.
Public Chairperson

Vinna Juneja
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