

NASD REGULATION, INC.  
AWARD

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In the Matter of the Arbitration Between

Name of Claimants

Joseph Joseph

96-01360

Name of Respondents

Stratton Oakmont, Inc.  
Scott Feigelman  
Stephen G. Buxton

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**REPRESENTATION**

For Claimant Joseph Joseph ("Claimant") appeared Marc S. Beckman, Esq. of the law office of Sonneborn Law Offices located in Syracuse, New York.

Respondent Scott Feigelman("Feigelman") appeared pro se.

Respondent Stephen Buxton ("Buxton") appeared pro se and did not attend the hearing in this matter.

**CASE INFORMATION**

Claimant's Statement of Claim was filed on February 28, 1996.

Claimant's Amended Statement of Claim was filed on June 6, 1997.

Claimant's Submission Agreement was signed on March 17, 1996.

Respondents' Joint Statement of Answer was filed on June 13 1996.

Feigelman's Amended Statement of Answer filed on October 1, 1997.

Buxton's Submission Agreement was signed on May 22, 1996.

Stratton Oakmont, Inc.'s Submission Agreement was signed on May 15, 1996.

Feigelman did not file a Submission Agreement.

### **HEARING INFORMATION**

Pre-Hearing Conference (single panel): May 21, 1997 One Session

Hearing Date (full panel): April 20, 1998 Two-Sessions

The hearing was conducted at the Best Western Hotel located in Albany, New York.

### **CASE SUMMARY**

Claimant alleged that he was an unsophisticated investor. Claimant alleged that Feigelman and Buxton, brokers with Stratton Oakmont, Inc., solicited and pressured Claimant to purchase securities unsuitable for his level of experience and investment objectives. Claimant alleged that the securities were unsuitable because he was never made aware of the costs of purchasing these securities, or that Stratton made a market in them. Claimant alleged that the securities were also unsuitable because they were held for an unreasonably short time and constituted an unacceptably high level of concentration in a limited number of securities. Claimant also alleged that Respondents breached their fiduciary duty to him. Claimant further alleged that Respondents violated rules of fair practice, engaged in deceptive business practices and committed fraud.

In their Joint Statement of Answer, Respondents asserted that transactions which occurred in Claimant's account were in accordance with Claimant's instructions and in conformity with all applicable rules, regulations, industry standards and practices.

### **RELIEF REQUESTED**

Claimant requested damages and recovery against the Respondents jointly and severally, as follows:

1. General and Compensatory damages in an amount according to proof, but not less than \$20,000.00;
2. All profits (i.e. commissions and/or mark-ups) Respondents generated, and each of them, in an amount according to proof, but not less than \$750.00;
3. The lost opportunity cost of what \$23,0000.00 would have earned if invested properly from January, 1995 to the date of any arbitration award, in an amount according to proof;
4. Interest on all sums recovered at the legal rate from January , 1995 up until the award, if any, is satisfied in full;
5. Costs of proceedings;
6. Punitive damages in an amount according to proof;
7. Attorney's fees and costs; and
8. Such other and further relief the panel deems just and proper.

Respondents jointly requested the following relief:

1. Dismissal of the Statement of Claim in its entirety;
2. Award Respondents their costs and expenses of this arbitration including reasonable attorneys' fees; and
3. Such other and further relief as is just and proper.

Respondent Feigelman requested the following relief in his Amended Statement of Answer:

1. Dismissal of the Statement of Claim as it related to him;
2. Award costs and expenses of arbitration;
3. Such other and further relief as is just and proper.

### **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.

During the course of the administration of this case, Stratton Oakmont, Inc. filed for bankruptcy so this matter was stayed as to Stratton Oakmont, Inc.

The panel made the following determinations concerning Feigelman who did not file a Submission Agreement and Buxton who 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 the entire matter.
2. The panel found that Feigelman was required to file a Submission Agreement with NASD Regulation, Inc. pursuant to Rule 10314(b) of the Code.
3. In addition, in accordance with Rule 10310, 10315 and 10318 of the Code, the panel found that NASD Regulation, Inc. provided Buxton with due notice of the hearing conducted in this matter by regular and certified mail. The panel further determined to proceed with the hearing without Buxton 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. Feigelman and Buxton are jointly and severally liable to Claimant for compensatory damages in the amount of \$14,560.00.

2. All other requests for relief are hereby denied.

### OTHER COSTS

Pursuant to Rule 10333 of the Code, Stratton Oakmont, Inc. has paid to NASD Regulation, Inc. the \$350.00 member surcharge previously invoiced.

### FORUM FEES

Pursuant to Rule 10332(c) of the Code, the arbitrators have determined that the NASD will retain the \$200.00 non-refundable filing fee deposited by Claimant and have assessed the following Forum Fees:

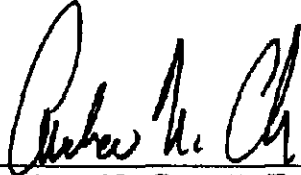
1 pre-hearing conference (single arbitrator) x \$300.00	= \$ 300.00
2 hearing sessions (full panel) x \$750.00	= \$1,500.00
Total Forum Fees	= \$1,800.00

1. Claimant be and is hereby liable and shall pay the sum of \$900.00, representing one-half of the total amount of forum fees for the hearings conducted in this matter. Claimant previously deposited \$750.00 with NASD Regulation, Inc. and, therefore, owes \$150.00 to the NASD.
2. Respondents be and are hereby jointly and severally liable and shall pay the sum of \$900.00, representing one-half of the total amount of forum fees assessed.

**ARBITRATION PANEL**

Andrew N. Carnell Esq.	-	Public Chairperson
R. Douglas Paton	-	Industry Arbitrator
Robert A. Berroyer	-	Public Arbitrator

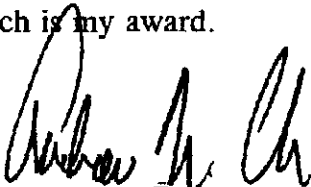
**CONCURRING ARBITRATOR'S SIGNATURE**



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Andrew N. Carnell, Esq.  
Chairperson-Public Arbitrator

Date of decision: July 24, 1998

I, Andrew N. Carnell, 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.



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Andrew N. Carnell, Esq.

**ARBITRATION PANEL**

Andrew N. Carnell, Esq.	-	Public Chairperson
R. Douglas Paton	-	Industry Arbitrator
Robert A. Berroyer	-	Public Arbitrator

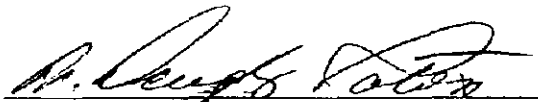
**CONCURRING ARBITRATOR'S SIGNATURE**



R. Douglas Paton  
Industry Arbitrator

Date of decision: July 24, 1998

I, **R. Douglas Paton**, 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.

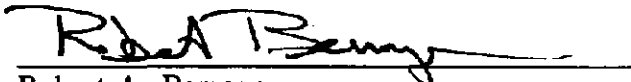


R. Douglas Paton

**ARBITRATION PANEL**

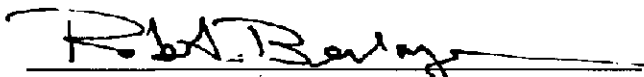
Andrew N. Carnell, Esq.	-	Public Chairperson
R. Douglas Paton	-	Industry Arbitrator
Robert A. Berroyer	-	Public Arbitrator

**CONCURRING ARBITRATOR'S SIGNATURE**

  
Robert A. Berroyer  
Public Arbitrator

Date of decision: July 24, 1998

I, Robert A. Berroyer, 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.

  
Robert A. Berroyer