

NASD REGULATION, INC. AWARD

OFFICE OF DISPUTE RESOLUTION

In the Matter of the Arbitration Between

Name of Claimant(s)

Anabella D. Rich and Barbara R. North

96-01462

Name of Respondent(s)

Andrew Tzanides

Roy Elterman

Joseph Chiulli

REPRESENTATION

For Claimants Anabella D. Rich ("Rich") and Barbara R. North ("North") (collectively "Claimants") appeared Barbara R. North, pro se.

For Respondent Andrew Tzanides ("Tzanides") appeared Leon B. Lipkin, Esq., of the law office of Leon B. Lipkin located in New York, New York.

CASE INFORMATION

The Statement of Claim was filed on April 26, 1996.

Claimants' Submission Agreement was signed on February 14, 1996.

A Statement of Answer was filed by Respondent Tzanides on June 03, 1996.

Respondent Tzanides's Submission Agreement was signed on June 04, 1996.

A Statement of Answer was filed by Respondent Elterman on June 17, 1996.

Respondent Elterman's Submission Agreement was signed on June 11, 1996.

Respondent Chiulli did not file a Statement of Answer.

Respondent Chiulli did not execute a Uniform Submission Agreement as required by Rule 10314(b) of the Code of Arbitration Procedure.

HEARING INFORMATION

Pre-Hearing Conference:

January 13, 1997

One Session

June 10, 1997

One Session

Hearing Dates/Sessions:

July 16, 1997

Two Sessions

July 17, 1997

Two Sessions

July 30, 1997

One Session

The pre-hearing conferences were held telephonically. The hearings were conducted at the offices of NASD Regulation, Inc. located in New York, New York.

CASE SUMMARY

Claimants alleged that Respondent Tzanides used high pressure tactics in soliciting claimants to purchase 5,000 shares in an Italian telephone company (Stet Spa ITL). Claimants alleged that the security was denominated in lira and highly speculative. Claimants maintained that Respondent Tzanides sold these securities without authorization to buy shares in Excel Resources. Claimants maintained that this was a highly speculative investment traded only on the NASD bulletin board. Claimants maintained that the Excel securities could not be followed in any publication and the only information available was its 10K filing with the SEC.

Claimants maintained that Respondent Tzanides made unsuitable investments and traded without the authorization or understanding of Claimant Rich. Claimants maintained that Claimant Rich, a seventy seven year old woman, had very little business or securities knowledge. Claimants maintained that the portfolio of Claimant Rich was and is conservative. Claimants alleged that Respondent Tzanides made highly speculative investments that represented approximately 20% of Claimant Rich's net worth.

Respondent Tzanides maintained that the trades were fully authorized by Claimants and that no objections were raised when confirmations were sent. Respondent Tzanides maintained that the investment in Excel Resources was suitable for Claimants based on the information available in the 10K, that it showed a considerable growth potential, matched the investment growth objective of Claimants. Respondent Tzanides maintained that when he changed securities firms he asked Claimants to transfer the account with him so he could manage the investments. Respondent Tzanides maintained that Claimants refused and, therefore, he could not minimize the losses when the market price of Excel fell dramatically.

Respondent Elterman maintained that he was not the account manager for Claimants, and therefore, did not recommend or purchase any securities for Claimants and cannot be held responsible for their losses. Respondent Elterman offered the following affirmative defenses: 1) the Claimants assumed the risks incident to investing in securities. Any losses sustained by the Claimants were caused by and arose out of their assumption of such risks; 2) the Claimants authorized and directed the execution of all transactions in their account and accordingly, Claimants are estopped from claiming any losses with respect to these transactions; 3) Claimants authorized and/or ratified the transactions in their account; 4) the Statement of Claim must be denied to the culpable conduct of the Claimants and their failure to mitigate any damages; and 5) the Statement of Claim is barred, in whole or in part by the applicable statutes of limitation.

RELIEF REQUESTED

Claimants requested \$25,000.00 in compensatory damages, punitive damages, costs of this arbitration and requested that the panel recommend disciplinary action with regard to Respondent Tzanides' alleged violations of NASD rules.

Respondent Tzanides did not request relief.

Respondent Elterman requested that the Statement of Claim be dismissed, all fees assessed against Claimants, attorney fees, and other such relief that the panel deems appropriate.

Respondent Chiulli 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(s) remain on file with the NASD.

- 1) The Claimants stipulated and agreed that the Statement of Claim was hereby withdrawn with prejudice as against Respondent Roy Elterman on January 03, 1997.
- 2) Respondent Joseph Chiulli was removed from these arbitration proceedings due to bankruptcy protection.

AWARD

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

- 1) The panel determined that the securities, Stet Spa ITL and Excel Resources, were unsuitable for Claimant's account at issue.
- 2) Respondent Tzanides is to pay Claimants \$18,400.00 at 7% simple interest from August 01, 1997, until date of payment, less any amounts received by Claimants from the settlement with the prior joint Respondent Roy Elterman; provided, however, that Claimants are to tender all shares of Excel Resources in their possession to Respondent Tzanides.
- 3) Punitive damages are denied.
- 4) Respondent Tzanides is responsible for all forum fees, including any amounts paid previously by Claimants.

FORUM FEES


Pursuant to Rule 10332 of the NASD Code of Arbitration Procedure, the arbitrators have determined that NASD Regulation, Inc. shall retain the \$100.00 non-refundable filing fee previously deposited by the Claimants and have assessed the following Forum Fees:

2 Pre-Hearing Sessions x \$300.00	=	\$ 600.00
5 Hearing Sessions x \$400.00	=	\$2,000.00
Hearing Session Deposit	=	(\$ 400.00)
Total Forum Fees Outstanding	=	\$2,200.00

1) Respondent Tzanides be and hereby is hereby liable for the sum of \$2600.00 representing 100% of the total forum fees assessed. Respondent Tzanides owes NASD Regulation, Inc. the sum of \$2200.00 and owes claimants the sum of \$400.00.

Fees are payable to the NASD Regulation, Inc.

ARBITRATORS' SIGNATURES



Cynthia L. Boyce, Esq.
Public Chairperson

Melvin Lyon
Public Panelist

Dale Berman
Industry Panelist

Date of Decision: September 23, 1997

I, Cynthia L. Boyce, 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.



Cynthia L. Boyce, Esq.

ARBITRATORS' SIGNATURES

Cynthia L. Boyce, Esq.
Public Chairperson

Melvin Lyon
Melvin Lyon
Public Panelist

Dale Berman
Industry Panelist

Date of Decision: September 23, 1997

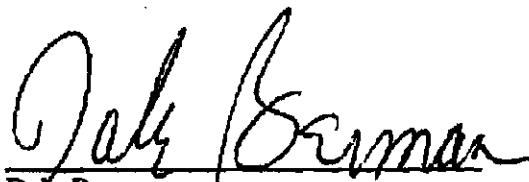
I, Melvin Lyon, do hereby affirm pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein, and who executed this instrument which is my award.

Melvin Lyon
Melvin Lyon

ARBITRATORS' SIGNATURES

Cynthia L. Boyce, Esq.
Public Chairperson


Melvin Lyon
Public Panelist



Dale Berman
Industry Panelist

Date of Decision: September 23, 1997

I, Dale Berman, 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.



Dale Berman