

AWARD

NASD Regulation, Inc.

In the Matter of the Arbitration Between

Name of Claimant

Robert R. Pfeifer

96-01515

Name of Respondent

Richard L. Ringel

REPRESENTATION

Claimant Robert R. Pfeifer ("Claimant") was represented by Susan Ciallella, Esq., Adler & Gold, Cherry Hill, NJ.

Respondent Richard L. Ringel ("Respondent") appeared *pro se*.

CASE INFORMATION

The Statement of Claim was filed April 8, 1996.

Claimant's Uniform Submission Agreement was signed August 14, 1996.

The Statement of Answer was filed August 2, 1996.

Ringel's Uniform Submission Agreement was signed July 22, 1996.

HEARING INFORMATION

Hearing Date/Sessions: August 24, 1998/one session

Hearing Location: NASD Regulation District Office
Philadelphia, PA

CASE SUMMARY

Claimant alleged that in January 1995 Respondent contacted him and induced him to authorize an order for 100 shares of Dr. Pepper. Claimant further alleged that he initially resisted the solicitation but Respondent's high pressure sales tactics and the fact that Claimant was sixty-one years old and ill at the time led Claimant to give in to the inducement. Claimant asserted that as he was on permanent disability with a modest income from disability insurance and social security, he had always been a conservative risk-averse investor. Claimant contended that Respondent knew of Claimant's medical condition, his financial circumstances and his conservative investment history and goals.

Claimant alleged that Respondent entered false information on the new account form including inflated figures for Claimant's income and net worth, as well as Claimant's investment goals. In addition, Claimant alleged that Respondent misrepresented the value of Select Media Communications and failed to inform Claimant of any negative information about the company. Claimant alleged that Respondent's

unrelenting sales calls also promoted Dual Star Technologies. Claimant alleged that Respondent always insisted that he had inside information or that the president of the company was "standing in his office and speaking about how strong the company was."

Claimant alleged that Respondent's activities resulted in a breach of contract; breach of fiduciary duty; common law fraud; violations of the anti-fraud provisions of the federal and state securities laws and regulations; common law negligence; churning; and violations of state consumer protection laws.

Respondent denied the allegations raised in the Statement of Claim. Respondent maintained that Claimant is an experienced and affluent investor who knowingly and willingly assumed and accepted the risks in the hopes of large gains over a short period of time. Respondent contended that Claimant confirmed the information on the new account form and signed it. Respondent further contended that at no time did Claimant inform him that he wanted safe conservative investments because "growth companies and speculative investments" were marked on the new account form which Claimant signed.

Respondent maintained that in the 2.5 months that Claimant had an account, he purchased three securities including a public offering. Respondent further maintained that Claimant made profits of approximately \$5,000.00 on the Dr. Pepper stock and Dual Star units in a public offering and suffered a loss of \$1,875.00 on the Dual Star common stock. Respondent contended that the only other stock purchased by Claimant was Select Media Communications which was not sold while with Respondent but transferred to another firm. Respondent maintained that even if Select Media Communications was a total loss, all losses would only amount to approximately \$45,000.00 which is far less than that claimed by Claimant.

Respondent raised the affirmative defenses of a failure to state a claim upon which relief can be granted; contributory negligence; a lack of proximate cause; ratification, estoppel and waiver; and the claims being beyond the applicable statutes of limitation.

RELIEF REQUESTED

Claimant requested damages of at least \$85,000.00 as well as punitive and treble damages of at least \$500,000.00; and the costs of this arbitration including reasonable attorney's fees.

Respondent requested that the Statement of Claim be dismissed in its entirety.

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.

The panel considered Respondent's Motion to Dismiss and Claimant's Response thereto, and denied the motion.

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. That Respondent is liable to and shall pay to Claimant \$2,000.00 inclusive of interest; and
2. That the claim for treble and punitive damages is denied; and
3. That each party is to pay its own costs and expenses, including attorney's fees with the exception of forum fees as specified below; and
4. That any and all relief not specified herein is denied.

OTHER COSTS

Pursuant to Rule 10319 of the Code of Arbitration Procedure ("Code"), Claimant has been assessed an adjournment fee of \$750.00 and Respondent has been assessed two adjournment fees, the first for \$750.00 and the second for \$1,000.00.

FORUM FEES

Pursuant to Rule 10332(c) of the Code, the following Forum Fees are assessed:

1 session x \$750.00 = \$750.00


Forum fees are assessed at \$375.00 to Claimant and \$375.00 to Respondent. Claimant's hearing session deposit of \$750.00 has been applied to the forum fees and to the adjournment fee as referenced above. Respondent has a net forum fee assessment of \$375.00 in addition to the two adjournment fees referenced above, leaving net fees of \$2,125.00 due from Respondent.

Fees are payable to the NASD Regulation, Inc. Office of Dispute Resolution.

DATE

9/4/98

CONCURRING ARBITRATORS' SIGNATURES



John J. Jordan, Chairman
Public Arbitrator

Albert Mancini, Jr.
Public Arbitrator

Mary Ann M. Melchiorre
Industry Arbitrator

Date Decision Served by NASD Regulation:

September 10, 1998

DATE

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9.3.98

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