

N.A.S.D. REGULATION AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS REGULATION, INC.

In the Matter of the Arbitration Between

Name of Claimant

Monte S. Meltzer

96-01598

Name of Respondent

Ronald J. Geraci
Ronald Greenspan
PCM Securities Limited

REPRESENTATION

Claimant Monte S. Meltzer ("Claimant") appeared *pro se*.

Respondent Ronald J. Geraci ("Geraci") did not appear at the hearing.

Respondents Ronald Greenspan ("Greenspan") and PCM Securities, Ltd. ("PCM") were represented by Jeffrey S. Rosen, Esq., DeMartino, Finkelstein, Rosen and Virga, Washington, D.C.

CASE INFORMATION

The Statement of Claim was filed April 12, 1996.

Claimant's Uniform Submission Agreement was signed April 10, 1996.

The Joint Statement of Answer of Geraci, Greenspan and PCM (collectively "Respondents") was filed August 5, 1996.

Greenspan's Uniform Submission Agreement was signed May 28, 1996.

Geraci and PCM did not file executed agreements to arbitrate.

HEARING INFORMATION

Hearing Dates/Sessions: February 13, 1997/two sessions
February 14, 1997/two sessions

Hearing Location: NASD Regulation Headquarters
Washington, D.C.

CASE SUMMARY

Claimant alleged, among other things, that Geraci failed to complete an IRA account rollover despite repeated requests to do so, engaged in unauthorized trading in Claimant's account and induced Claimant

to authorize other transactions through a series of blatant misrepresentations and the omission of material facts. Claimant also alleged, that Greenspan and PCM failed to properly supervise Geraci in the management of Claimant's account.

Claimant alleged that he requested that Geraci place 326,200 shares of Earth Search Sciences, Inc. ("EDIS") in an IRA account and 233,000 shares of EDIS in a SEP/IRA account. Claimant alleged that the stock certificate for 814,281 shares of EDIS was sent to Respondents. Claimant alleged that Geraci repeatedly assured Claimant that the transactions were complete, however Claimant never received written confirmation. Claimant alleged that he wrote to Greenspan at PCM on several occasions about his concerns but did not get any reply. Claimant alleged that he received notice that 100,000 shares of EDIS were sold from his general brokerage account but no confirmation that they were placed in the IRA account. In addition, Claimant alleged that he received a Buy In Notification in August 1995 from Bear, Stearns Securities Corp. to deliver 100,000 shares of EDIS or they would be required to purchase these securities for Claimant's account. Claimant alleged that he then received a notice in November 1995 that 100,000 restricted shares of EDIS were removed from his account by "journal" entry, with no explanation.

Claimant alleged that Geraci induced him to authorize unsuitable transactions in Comcentral and Global Vision Unlimited through a series of personal guarantees, misrepresentations and omissions of important facts. Claimant alleged that Geraci also engaged in excessive trading in Claimant's account for the benefit of higher commissions for Geraci. Claimant alleged that throughout his dealings with Geraci, Greenspan and PCM failed to supervise Geraci and failed to communicate with Claimant in the attempts to resolve the situation.

Respondents denied allegations of wrong-doing as asserted in the Statement of Claim. Respondents maintained that Claimant was a highly sophisticated investor of significant net worth, who engaged in numerous transactions in low-priced securities at approximately a dozen brokerage firms. Respondents maintained that Claimant was highly knowledgeable in the area of trading low-priced securities, and was suitable for all trades which he made in his account. Respondents maintained that Claimant, in fact, characterized the PCM account as one of his speculative accounts. Respondents maintained that they violated no provisions of the law which proximately caused Claimant to bear pecuniary loss and that any losses which Claimant suffered were due to market forces and Claimant's own decisions.

Respondents maintained that Claimant's sale of 100,000 shares of EDIS was specifically authorized and ratified by Claimant. Respondents maintained that Claimant discussed the possible sale of EDIS and authorized it in discussions with PCM personnel; that Claimant received a prompt confirmation statement and thereafter a monthly statement showing the sale as "unsolicited". Respondents maintained that Claimant authorized the use of the proceeds to purchase other securities, and that Claimant thereafter executed a Form 144 and otherwise participated in efforts to cover a short position which inadvertently resulted from the sale. Respondents maintained that even had the sale been unauthorized, the Claimant suffered no compensable damage. Respondents maintained that Claimant obtained a profit from the sale of EDIS, as indicated by his federal income tax return, and Claimant had full access to the proceeds, which he utilized to authorize a subsequent investment. Respondents maintained that they acted properly and at their own expense to remedy the short caused in Claimant's account by the sale of the restricted EDIS shares, and that PCM, not Claimant, bore the only actual pecuniary loss resulting from the creation and filling of the short position.

Respondents maintained that Claimant failed to show that any representative of PCM made any false or misleading statements of material fact to induce Claimant to purchase ComCentral Corp. shares. Respondents maintained that even if misleading statements had been made, Claimant would not have relied upon them due to his sophistication and background. In addition, Respondents maintained that Claimant had invested in, and suffered a loss in, ComCentral Corp. at another brokerage firm prior to opening his account with PCM.

Respondents maintained that Claimant's high degree of sophistication and prior investment experience, including low-priced securities, initial public offerings, warrants, and options in the prior year, and the small portion of the Claimant's total net worth utilized in option transactions render Claimant suitable for the option trading in which he engaged. Respondents maintained that there was no evidence of excessive trading in Claimant's account and that Claimant had control of his options account at all times. In addition, Respondents maintained that Claimant authorized and ratified all options transactions in his account. Respondents also maintained that many were health-related companies and thus many of the commissions were actually reduced. In addition, Respondent maintained that Claimant invested relatively modest amounts of money in option trading.

Respondents maintained that Claimant failed to produce evidence of any false or misleading statements regarding Global Vision Ltd., Inc. ("GVL") which induced Claimant to authorize these transactions. Respondent also maintained that Claimant failed to produce any evidence that Respondents violated the Penny Stock Rule. In fact, Respondents maintained that Claimant had been a customer of PCM for more than one year prior to the transaction in GVL, PCM was never a market maker in GLV securities, and PCM did minimal business in penny stocks. Accordingly, Respondents maintained that the Penny Stock Rule did not apply.

RELIEF REQUESTED

Claimant requested damages in the amount of \$73,060.00 plus rescission of the unauthorized sale of the 100,000 shares of Earth Search Sciences, Inc.

Respondents 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.

That pursuant to the by-laws of the NASD, the panel determined that Respondents Geraci and PCM were required to submit to this arbitration, notwithstanding their failure to submit executed agreements to arbitrate. Therefore, Respondents Geraci and PCM are bound by the panel's rulings and determinations.

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 Geraci is liable to and shall pay to Claimant \$13,522.50.
2. That the claims against Roland Greenspan and PCM Securities, Ltd. are dismissed.
3. That each party shall pay its own costs and expenses with the exception of the Forum Fees as specified below.
4. That any relief not specifically addressed herein is denied.

FORUM FEES

Pursuant to Rule 10332(c) of the Code of Arbitration Procedure, the following Forum Fee(s) are assessed:

4 sessions x \$500.00 = \$2,000.00

Forum Fees are assessed at \$500.00 to Claimant, \$500.00 to Respondent Geraci, \$500.00 to Respondent Greenspan and \$500.00 to PCM Securities, Ltd.

Claimant is to receive credit for the \$500.00 hearing session deposit previously submitted to the NASD Regulation, leaving no further assessment due from Claimant.

Respondent Geraci has a net Forum Fees assessment due to the NASD Regulation of \$500.00.

Respondent Greenspan has a net Forum Fees assessment due to the NASD Regulation of \$500.00.

Respondent PCM Securities, Ltd. has a net Forum Fees assessment due to the NASD Regulation of \$500.00.

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

DATE

CONCURRING ARBITRATORS' SIGNATURES

3/6/97

Bruce Sanders

Bruce Sanders, Chairman
Public Arbitrator

Marvin P. Pastel
Public Arbitrator

John P. Rodler
Industry Arbitrator

Date Decision Served by NASD Regulation: March 13, 1997

DATE

CONCURRING ARBITRATORS' SIGNATURES

Bruce Sanders, Chairman
Public Arbitrator

3/7/97

Marvin P. Pastel

Marvin P. Pastel
Public Arbitrator

John P. Rodler
Industry Arbitrator

Date Decision Served by NASD Regulation: March 13, 1997

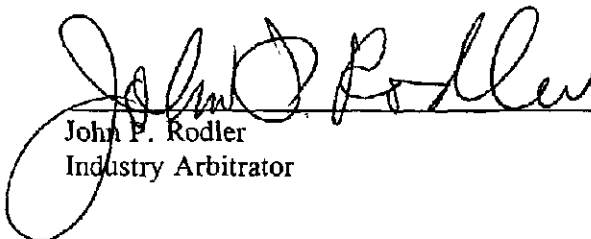
DATE

CONCURRING ARBITRATORS' SIGNATURES

Bruce Sanders, Chairman
Public Arbitrator

Marvin P. Pastel
Public Arbitrator

Feb. 6, 1997



John P. Rodler
Industry Arbitrator

Date Decision Served by NASD Regulation: March 13, 1997