

NASD REGULATION AWARD

NASD REGULATION, INC.

In the Matter of the Arbitration Between

Name of Claimant

Stephen P. Bogosian

96-01734

Name of Respondents

Josephthal Lyon & Ross Inc.
Mark Elanowitz

REPRESENTATION

For Claimant, Stephen P. Bogosian ("Claimant") appeared James D. Lantier, Esq. of the law firm Smith, Sovik, Kendrick & Sugnet located in Syracuse, New York.

For Respondents, Josephthal Lyon & Ross Inc. ("JLR") and Mark Elanowitz ("Elanowitz") (collectively the "Respondents") appeared Brian J. Neville, Esq., in-house-counsel located in New York, New York.

CASE INFORMATION

Statement of Claim filed: May 22, 1996.

Claimant's Submission Agreement signed on: April 16, 1996.

Joint Statement of Answer filed by Respondents on: July 17, 1996.

JLR's Submission Agreement signed on: July 17, 1996.

Elanowitz's Submission Agreement signed on: June 3, 1996.

HEARING INFORMATION

Hearing dates/sessions: January 15, 1997 - Two Sessions

The hearings were held at the Marriott hotel in Albany, New York.

CASE SUMMARY

Claimant alleged that, in mid-1994, he met Elanowitz, a registered representative of JLR and indicated he was interested in investing in small "tech-type" stocks. Claimant further alleged that, in November of 1994, he opened an account with JLR and, on Elanowitz's recommendation, purchased 2500 shares of Consolidated Ramrod Gold ("Consolidated") and purchased an additional 300 shares on April 4, 1995. Claimant also alleged that, between April 4, 1995 and July 12, 1995, Elanowitz told him Consolidated was guaranteed to shortly receive \$100,000,000 in new financing and, in reliance on this information,

Claimant purchased an additional 15,200 shares. Claimant asserted that during this time Elanowitz breached his fiduciary duty to him and, in the autumn of 1995, Elanowitz resigned from JLR and became employed by Consolidated as a stock broker. Claimant further asserted that, on September 20, 1995, he transferred his account to another branch of JLR and Elanowitz continued to assure him the financing for Consolidated was imminent. Claimant also asserted that Consolidated received financing of only \$10,000,000 in Canadian money. Claimant maintained that the CEO of Consolidated resigned and the stock fell. Claimant contended that, prior to the announcement about the Consolidated financing, he sold 5,000 shares and the value of his remaining Consolidated stock, that he sold after the announcement, plummeted. Claimant further contended that JLR never informed him that Elanowitz had been suspended from selling any more shares of Consolidated. Claimant also contended that, during his last six months of dealing with Elanowitz, he never recommended any stock other than Consolidated and never informed the Claimant of any potentially negative information about Consolidated. Claimant maintained that Respondents' actions violated the Securities and Exchange Acts of 1933 and 1934, as amended.

Respondents maintained that Claimant opened an account with JLR on November 23, 1994 and indicated that he wished to invest in speculative low priced securities. Respondents further maintained that Elanowitz recommended that Claimant purchase shares of Consolidated and, accordingly, Claimant purchased 4,500 shares of Consolidated in November of 1994 and an additional 300 shares on April 4, 1995. Respondents also maintained that Elanowitz informed Claimant that Consolidated had announced they were negotiating the acquisition of oil exploration concessions in Ecuador along with financing and, based on this information, Claimant purchased an additional 8,000 shares on May 17, 1995 and 7,200 shares on July 12, 1995. Respondents contended that Elanowitz was at all times acting in the best interest of Claimant and at no time did there exist a conflict of interest between Consolidated, Elanowitz and Claimant. Respondents further contended that Elanowitz never breached his fiduciary duty to Claimant and they never guaranteed the performance of Consolidated. Respondents further contended that, on September 21, 1995, Claimant transferred his account from Elanowitz to another JLR broker, but, despite this, Claimant continued to call Elanowitz. Respondents also contended that: Claimants failed to state a claim upon which relief may be granted; Claimant is estopped from asserting a recovery against Respondents; Claimant has failed to mitigate his damages and has waived his right to relief against Respondents; the damages claimed in the Statement of Claim are not the result of any act or omission of the Respondents; Claimant is barred from recovery because he authorized and ratified the transactions in question based on full disclosure of the nature and risks of the transactions.

RELIEF REQUESTED

Claimant requested damages equal to the difference in the amount of money he lost on his investment and the amount of money he could have made had his investment been reasonably invested.

Respondents requested that The Statement of Claim be dismissed and costs of the action.

OTHER ISSUES CONSIDERED AND 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. Claimant's claims are dismissed in their entirety.
2. All requests for attorney fees are denied.

FORUM FEES

Pursuant to Rule 10332 of the Code of Arbitration Procedure, the arbitrators have determined that NASD Regulation, Inc. shall retain the \$150.00 non-refundable filing fee previously deposited by the Claimant and have assessed the following forum fees:

2 Hearing Sessions x \$500	= \$1,000.00
----------------------------	--------------

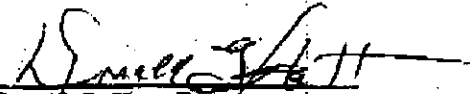
Claimant, Stephen P. Bogosian, is hereby liable and shall pay to NASD Regulation Inc. \$500.00 representing one-half of the total amount of forum fees assessed. Claimant previously deposited \$500.00 dollars to NASD Regulation, Inc. Therefore, Claimant, Stephen P. Bogosian, owes nothing by way of forum fees.

Respondents, Josephthal Lyon & Ross Inc. and Mark Elanowitz, are jointly and severally liable for \$500.00 representing one-half of the forum fees assessed. Therefore, Respondents, Josephthal Lyon & Ross Inc. and Mark Elanowitz, shall pay to NASD Regulation, Inc. the sum of \$500.00.

Fees are payable to NASD Regulation, Inc.

ARBITRATOR'S SIGNATURES

I, Donald G. Hatt, 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.


Donald G. Hatt, Esq.

I, Prescott C. Sook, 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.

Prescott C. Sook, Esq.

I, Ronald E. Miller, 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.

Ronald E. Miller

Date of Decision: May 12, 1997

ARBITRATOR'S SIGNATURES

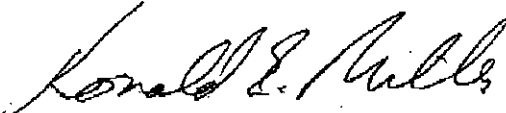
I, Donald G. Hatt, Esq., do hereby affirm, pursuant to article 7507 of the Civil Practice Law and Rules, that I am the individual described herein, and who executed this instrument which is my award.

Donald G. Hatt, Esq.

I, Prescott C. Sook, 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.

Prescott C. Sook, Esq.

I, Ronald E. Miller, 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.



Ronald E. Miller

Date of Decision: May 12, 1997