

02-13-98 11:14AM FROM NASD ARBITRATION TO 919848217403 P001

NASD REGULATION, INC. AWARD

Office of Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

Larry Moffett

Case No. 96-01814

Names of Respondents

Robert Rondinello
Vision Investment Group, Inc.

REPRESENTATION OF PARTIES

Claimant Larry Moffett appeared pro se.

Respondent Robert Rondinello Esq. appeared pro se.

For Respondent Vision ("Vision"): Paul Caruso of Vision Investment Group, Inc.

CASE INFORMATION

Statement of Claim was filed on February 28, 1996. Submission Agreement of Claimant was signed on April 17, 1996.

Statement of Answer was filed by Respondent Rondinello on January 23, 1997. Submission Agreement of Respondent Rondinello was signed on January 22, 1997.

Respondent Vision did not file a Statement of Answer or sign a Submission Agreement as required by Rules 10301 and 10314 of the Code.

HEARING INFORMATION

The evidentiary hearing was conducted by telephone conference call in one session on November 13, 1997.

CASE SUMMARY

Claimant alleged the following: He was an unsophisticated investor. Respondent Rondinello was employed by Vision and placed a "cold call" to Claimant in the summer of 1995. Respondent fraudulently induced Claimant to purchase shares of PCNI. Subsequently, Rondinello made unauthorized sales of the PCNI stock and an unauthorized purchase of stock in AUXER, a gold-mining concern, for Claimant's account. The AUXER trade was entered after Claimant specifically directed Rondinello not to purchase those shares. When Claimant learned of the unauthorized trades, he tried to contact Rondinello and Vision but learned that Vision was no longer in business. Claimant asserted that the actions of the Respondents violated the NASD Rules of Fair Practice, NYSE Rules, standards of the profession, and Chapter 517, Florida Statutes.

Respondent Rondinello denied all allegations of wrongdoing set forth in the Statement of Claim and specifically stated the following: Claimant was an experienced businessman with substantial net worth. Rondinello made no unauthorized trades in Claimant's account. Vision traders in Buffalo, NY purchased the AUXER shares for every account that had cash during that period, including Claimant's account. When Rondinello learned of the improper conduct on November 21, 1995, he immediately complained to his superiors and was directed to turn over his "retail book". He did so and resigned immediately.

RELIEF REQUESTED

Claimant requested an award in the amount of \$10,000.00, pre-award and post-award interest, punitive damages, and costs.

Respondent Rondinello requested a dismissal.

Respondent Vision did not respond or attend the hearing that was conducted telephonically.

OTHER ISSUES CONSIDERED & DECIDED

1. Upon review of the file and the representations made by Claimant, the undersigned arbitrator determined the following: Despite at least five attempts made by NASD Regulation, Inc. staff, it appears that Vision refused to accept service of the Claim and notice of the hearing dates. Based on the foregoing, Respondent Vision was properly served with the Statement of Claim pursuant to Rule 10302 and Rule 10314 of the NASD Regulation, Inc. Code of Arbitration Procedure ("Code"). Also based on the foregoing, NASD Regulation, Inc. staff provided due notice of the of the hearing as required under Rule 10315 of the Code. Therefore, Respondent Vision received due notice of the hearing as required under Rule 10315 of the Code; arbitration of this

matter proceeded pursuant to Rule 10318 of the Code; and, Vision will be bound by the determination of the arbitrator on all issues submitted.

2. The parties who attended the hearing 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, these parties have agreed to receive conformed copies of the award while the original remains on file with the NASD Regulation, Inc. Office of Dispute Resolution.

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing and post hearing submissions, the arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents are found liable, jointly and severally, and shall pay to Claimant the amount of \$10,000.00.
2. Respondents, jointly and severally, shall also pay to the Claimant the sum of \$75.00 representing reimbursement of the hearing session deposit previously made by the Claimant.
3. Respondents, jointly and severally, shall pay to the Claimant the additional sum of \$75.00 representing reimbursement of the non-refundable filing fee previously paid by the Claimant.
4. Claimant's requests for pre-award interest, post-award interest, and punitive damages are denied.

FORUM FEES

Pursuant to Rule 10332(b) of the Code, a hearing session is any meeting between the parties and the arbitrators, including a pre-hearing conference with an arbitrator, which lasts four hours or less.

Pursuant to Rule 10332(c) of the Code, the panel has assessed forum fees in the amount of \$200.00 (one hearing session at \$200.00 per session).

1. Respondents, jointly and severally, are assessed the sum of \$200.00 for which NASD Regulation, Inc. shall retain the \$75.00 previously deposited by Claimant in partial satisfaction thereof, leaving a balance due in the sum of \$125.00. Claimant shall be reimbursed as set forth in the Award section, above.

NASD Regulation, Inc. Office of Dispute Resolution
Arbitration No. 96-01814
Award Page 4 of 4

2. NASD Regulation, Inc. shall retain the non-refundable filing fee of \$75.00 paid by the Claimant. Claimant shall be reimbursed as set forth in the Award section, above.

3. Pursuant to Rule 10333 of the Code, Respondent Vision shall pay to NASD Regulation, Inc. the \$100.00 past due member surcharge, which was previously invoiced.

Fees are payable to NASD Regulation, Inc.

Concurring Arbitrator's Signature

Gary L. Tidwell
Gary L. Tidwell, Esq.
Public Arbitrator, Presiding Chair

Date of Decision: Feb. 13, 1998