

# **NASD** Arbitration & Mediation

National Association of Securities Dealers, Inc. \* NASD Financial Center \* 33 Whitehall Street \* New York, NY 10004 \* Fax 212-858-4429  
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## **N.A.S.D. AWARD**

### **NATIONAL ASSOCIATION OF SECURITIES DEALERS**

In the Matter of the Arbitration Between

Name of Claimant

George W. Morris

96-02504

Name of Respondent

Marco Fiore

### **CASE SUMMARY**

In a claim filed with the National Association of Securities Dealers, Inc. on June 11, 1996, claimant George W. Morris ("claimant"), through his representative, Matthew D. Wayne, Esq. of the law firm, Fishman & Merrick, P.C., of Chicago, Illinois, alleged that respondent Marco Fiore ("respondent"), was the broker of record on his account at Robert Todd Financial Corporation. Claimant further alleged that respondent contacted him frequently, utilizing high pressure and deceptive sales practices.

Claimant also alleged that with each subsequent call, respondent would recommend that he sell some or all of the previously bought security and utilize the proceeds to purchase a new security. Claimant contended that respondent pressured him into buying and selling the following investments: 500 shares of Lifecell, purchased for a total cost of \$6,500 in August, 1993; Spectrum Technology in October, 1993; Pacific Rim Entertainment in December, 1993; 250 shares of Optex Medical at \$5 per share and 370 shares of Optex Medical at \$8.75 per share; Country World in August, 1994 and Comet Software in October, 1994. Claimant also contended that the calls stopped when he retired in November, 1994. Claimant alleged that respondent did not disclose the risks associated with the above listed investments. Claimant further alleged that respondent is liable for the fraudulent sales practice.

Respondent Marco Fiore who appeared Pro Se, maintained that each trade executed in claimant's account was thoroughly explained to, authorized by and paid for by claimant. Respondent further maintained that whenever claimant called, he was given the best information. Respondent also maintained that the information which he gave to claimant, was made available through Robert Todd Financial's research department. Respondent contended that he was concerned that claimant requested research on small capitalized companies. Respondent further contended that he explained the risks involved, but claimant felt that these companies held the greatest potential. Respondent also contended that claimant did not complain in a timely manner or contact him about the way the account was handled. Respondent asserted that claimant is responsible for his losses which he accrued while investing in highly speculative stocks.

**RELIEF REQUESTED**

Claimant George W. Morris requested that he be awarded the maximum allowable amount under NASD Simplified Arbitration, plus attorneys fees and costs.

Respondent Marco Fiore requested that the claims be dismissed.

**OTHER ISSUES CONSIDERED AND DECIDED**

The Arbitrator reviewed and considered all documentation regarding the Claimant's Motion to Bar the Late Answer of Respondent Marco Fiore, pursuant to Section 10314(b)(2)(C) of the NASD Code of Arbitration Procedure. The Arbitrator denied the motion.

**AWARD**

Pursuant to Section 10302 of the NASD Regulation, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Jonathan P. Tomes, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the claimant George W. Morris, Esq. on September 13, 1996, and not by respondent Marco Fiore, as required by Sections 10301 and 10302 of the NASD Code of Arbitration Procedure.

And, the Arbitrator, having considered the proof of the parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondent Marco Fiore is liable and shall pay to the claimant George W. Morris \$10,000 in actual damages.
2. The parties shall bear their respective costs.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant George W. Morris shall be retained by the NASD, Inc.
4. All other relief requests are denied.

**AFFIRMATION**

I, JONATHAN P. TOMES, ESQ., do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.

  
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Signature of Arbitrator

**DATE OF DECISION:** November 27, 1996