

N.A.S.D. REGULATION AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS REGULATION, INC.

---

In the Matter of the Arbitration Between

Name of Claimants

Anthony W. and Katherine Schweiger

96-02652

Name of Respondent

Jordan Shamah

---

REPRESENTATION

Claimant's Anthony W. and Katherine Schweiger ("Claimants") were represented by Neal A. Jacobs, Esq., Blank, Rome, Comisky & McCauley, Philadelphia, PA.

Respondent Jordan Shamah ("Respondent") did not appear.

CASE INFORMATION

The Statement of Claim was filed on June 20, 1996.

Claimant's Submission Agreement was signed on July 11, 1996.

Statement of Answer filed by Respondent was filed on October 12, 1996.

Respondent's Submission Agreement was signed on October 8, 1996.

HEARING INFORMATION

Hearing Date/Sessions: March 26, 1997/two sessions

Hearing Location: Bell Atlantic Tower, 37th Floor  
Philadelphia, PA

CASE SUMMARY

Claimants alleged that Respondent, while employed by Stratton Oakmont, engaged in unauthorized trading in Claimants' account and converted Claimants' funds for their own use. Claimants alleged that Respondent encouraged and induced Claimants, using misrepresentations, to make single day purchase and sale transactions in initial public offerings underwritten by Stratton Oakmont. Claimants alleged that they never gave trading authority to Respondent or to any other individual at Stratton Oakmont.

Claimants alleged that while they made various investments in single day trades following this pattern until February 16, 1996. Claimants alleged that on February 16, 1996 Respondent, without authorization from Claimants, executed purchase orders on behalf of Claimants for 40,000 shares of Aquanatural Company at \$2.50 per share and 17,000 shares of Care Group at \$6.00 per share, resulting in a total charge to Claimants of \$202,000.00, exclusive of commissions. Claimants alleged that they repeatedly

requested that Respondent reverse the transactions and while Respondent stated to Claimants that he would reverse the transactions, he failed to ever do so.

In addition, Claimants alleged that on or about February 17, 1995, they gave an order to Respondent to sell 15,000 shares of Master Glaziers Karate International, Inc. at a price of \$3.00 per share. Although Respondent executed the sale and obtained \$45,000.00 in proceeds, Respondent failed to forward those proceeds to Claimants and thereby converted those funds to his own use.

Claimants alleged that Respondent's conduct constituted a breach of their brokerage agreement, a breach of their fiduciary duty to Claimants, misappropriation and conversion of funds as well as misrepresentation of material facts and negligence.

In his Statement of Answer, Respondent denied all allegations asserted by Claimants in the Statement of Claim. Respondent maintained that all transactions in Claimants' account were authorized and/or ratified. Respondent maintained that he acted in good faith and Claimants were responsible, through their own negligence, for their losses.

#### **RELIEF REQUESTED**

Claimants requested, in their Statement of Claim, losses totaling \$247,000.00, and also requested interest and punitive damages. However, at the hearing, Claimants revised their compensatory damage claim to \$193,815.00, inclusive of interest, and punitive damages.

In his Statement of Answer, Respondent requested that the Statement of Claim be dismissed in its entirety.

#### **OTHER ISSUES CONSIDERED & DECIDED**

The parties in attendance 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, pursuant to Rule 10318 of the Code of Arbitration Procedure, determined that Respondent received notice of the matter as well as the date and time of the hearing but failed to appear. Therefore, Respondent is bound by the rulings and determinations of the panel.

The panel concluded that Pennsylvania law shall apply to this dispute.

### 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 Jordan Shamah is liable to and shall pay to Claimants \$178,710.75, representing compensatory and consequential damages, as well as prejudgment interest calculated at the rate of 6% per annum.
2. That Respondent Jordan Shamah is liable to and shall pay to Claimants punitive damages in the amount of \$20,000.00 based on the panel's conclusion that Respondent Jordan Shamah's activities were so egregious as to constitute wilful and malicious conduct in converting assets belonging to Claimants.
3. That Respondent Jordan Shamah is liable to and shall reimburse Claimants for the \$750.00 hearing session deposit previously submitted to the NASD Regulation.
4. That each party shall bear its own costs and expenses, including attorney's fees except for forum fees as specifically addressed in the award and below.
5. 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 Fees are assessed:

2 sessions x \$750.00 = \$1,500.00

Forum Fees are assessed against Respondent Jordan Shamah. Respondent will receive credit for the \$750.00 hearing session deposit he was ordered to reimburse to Claimants in the award above, leaving a net assessment due of \$750.00.

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

DATE

CONCURRING ARBITRATORS' SIGNATURES

4/26/97



Steven T. Stern, Chairman  
Public Arbitrator

\_\_\_\_\_  
Edward M. Miller  
Public Arbitrator

\_\_\_\_\_  
Michael Quarto  
Industry Arbitrator

Date Decision Served by NASD Regulation:

April 16, 1997

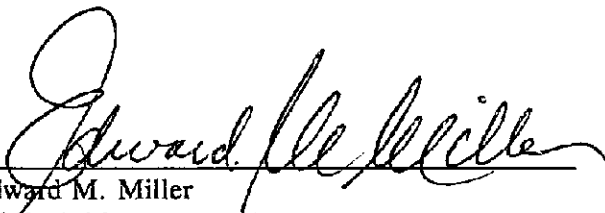
DATE

CONCURRING ARBITRATORS' SIGNATURES

\_\_\_\_\_

\_\_\_\_\_  
Steven T. Stern, Chairman  
Public Arbitrator

4/4/97

  
\_\_\_\_\_  
Edward M. Miller  
Public Arbitrator

\_\_\_\_\_

\_\_\_\_\_  
Michael Quarto  
Industry Arbitrator

Date Decision Served by NASD Regulation:

April 16, 1997

DATE

CONCURRING ARBITRATORS' SIGNATURES

\_\_\_\_\_

\_\_\_\_\_  
Steven T. Stern, Chairman  
Public Arbitrator

\_\_\_\_\_

\_\_\_\_\_  
Edward M. Miller  
Public Arbitrator

4/2/97

Michael Quarto  
Michael Quarto  
Industry Arbitrator

Date Decision Served by NASD Regulation: April 16, 1997