

NASD REGULATION, INC. AWARD

NASD REGULATION, INC.

In the Matter of the Arbitration Between

Name of Claimant

Joseph Mattero

96-03352

Name of Respondents

James Walsh
Joseph Dillon & Co.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers Regulation, Inc., on September 4, 1996, Claimant, Joseph Mattero ("Claimant"), who appeared pro-se, alleged that in April of 1996 he met with Respondent, James Walsh ("Walsh"), a broker for Respondent, Joseph Dillon & Co. ("JDC"). Claimant further alleged that he told Walsh, that because he was planning to purchase a house, he wanted to invest his IRA in a safe account where it would not lose any money and it would just gain interest. Claimant also alleged, that on Walsh's recommendation, he agreed to invest his money in the John Hancock Fund ("the Fund"). Claimant maintained Walsh told him he would send him a prospectus on the Fund, but he never received any papers. Claimant asserted that in May 1996 he reminded Walsh to make sure his money was safe because he was going to use it to buy a house. Claimant further asserted that he received a statement in June of 1996 that revealed Walsh had actually purchased 3000 shares of Techdyne Inc. ("Techdyne") for \$28,702.50 and put \$1,370.48 into a money market account. Claimant also asserted that the purchase of Techdyne was without his knowledge or authorization. Claimant alleged, that when he talked to Walsh in June 1996, he reminded Walsh his money was to be used to purchase a house. Claimant further alleged that Walsh told him not to worry and that he would not lose any money. Claimant maintained that in July, 1996, Techdyne dropped significantly and when he communicated his concerns to Walsh he was again told not worry. Claimant also maintained that he called the Compliance manager at JDC, Jerry Schwartzman ("Schwartzman"), and told him he had trusted Walsh to put his money into a money market fund as instructed and that Schwartzman had responded, "You should not have put your trust in him." Claimant contended that on July 12, 1996 he ordered JDC to sell the stock but it was not actually sold until July 23, 1996. Claimant further maintained that he then had his investment transferred to a money market account.

Respondents, through their representative, Eva M. Possavino, Esq., of the law firm Caro & Graifman located in New York, New York, asserted that Claimant purchased the stock with full knowledge of the risks of the investment and then decided not to sell on the speculation that the stock value would increase. Respondents alleged that, in his New Account Application, Claimant instructed Walsh to "hold" all funds, dividends and securities and that such instructions are consistent with an investor who is interested in speculation. Respondents further alleged that Walsh met with Mattero on May 1, 1996 and

after he fully explained the nature and risks of investing in Techdyne stock, Claimant opened an account with Dillon and bought Techdyne stock. Respondents also alleged that Claimant and Walsh discussed the status of Techdyne stock in June and July of 1996. Respondents alleged that the first time Claimant stated he "never wanted to buy Techdyne" was during a telephone conversation in July, 1996. Respondents further alleged, that on July 11, 1996, Claimant was advised by Dillon's CEO Steven Jaloza ("Jaloza") that if he sold his stock he would lose about \$7,500.00. Respondents also alleged that Claimant told Jaloza he wanted to hold his stock for a few days until he made a final decision whether to sell. Respondents contended that on July 18, 1996, Mattero ordered his stock sold.

RELIEF REQUESTED

Claimant requested an award in an amount of \$7,717.50.

Respondents requested all of Claimant's claims be dismissed; that they be awarded attorney fees and costs of the suit and such further relief as is deemed just.

AWARD

Pursuant to Rule 10302 of the Code of Arbitration Procedure, a single Public Arbitrator, Fred Pieroni, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant, Joseph Mattero, on July 19, 1996 and by Respondent James Walsh on October 10, 1996 and by Respondent Joseph Dillon & Company on September 22, 1996. as required by Rules 10301 and 10302 of the Code of Arbitration Proceedings.

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. Respondents James Walsh and Joseph Dillon & Company are jointly and severally liable and shall pay to Claimant Joseph Mattero \$7,717.50 in actual damages.
2. The parties shall bear their respective costs, including attorneys' fees.
3. All other requests for relief are denied.
4. The \$150.00 filing fee previously deposited with National Association of Securities Dealers Regulation, Inc. by the Claimant James Walsh, shall be retained by NASD Regulation, Inc. Respondents are jointly and severally liable and shall pay to Claimant Joseph Mattero \$75.00 as reimbursement for one half of the filing fees.

AFFIRMATION

I, **Fred S. Pieroni**, do hereby swear or 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.


Fred S. Pieroni

Date of Decision: April 3, 1997