

NASD REGULATION, INC. AWARD

OFFICE OF DISPUTE RESOLUTION

In the Matter of the Arbitration Between

Name of Claimant

Gaetano Cafaro

96-03491

Name of Respondents

Island Securities, Inc.
Jan Jusko
Frank Duca

REPRESENTATION

For Claimant Gaetano Cafaro ("Claimant") appeared Kenneth T Wasserman, Esq., a sole practitioner located in New York, New York.

For Respondent Island Securities, Inc. ("ISI") appeared Jeffrey H. Weinberger, Esq., of the firm Winick & Rich, P.C., located in New York, New York.

For Respondent Jan Jusko ("Jusko") appeared Derek Smith, Esq., a sole practitioner located in New York, New York.

Respondent Frank Duca ("Duca") appeared pro se.

CASE INFORMATION

The Statement of Claim filed on: July 31, 1995.

Claimant's Submission Agreement signed on: September 6, 1996.

Respondent ISI filed a Statement of Answer on: November 5, 1996.

Respondent ISI's Submission Agreement signed on: November 25, 1996.

Respondent ISI's cross-claim against Respondent Duca filed on: November 5, 1996.

Respondent Jusko filed a Statement of answer on: December 30, 1996.

Respondent Jusko's Submission Agreement signed on: January 9, 1997.

Respondent Duca did not file a Statement of Answer or file a Submission Agreement as required by Rule 10314(b) of the Code of Arbitration Procedure.

HEARING INFORMATION

Hearing Date/Sessions:

June 11, 1997

Two Sessions

The hearings were held in the offices of NASD Regulation, Inc. located at 125 Broad St., New York, New York.

CASE SUMMARY

Claimant alleged that he is a resident of the Republic of France, that Respondent ISI is a brokerage firm registered with the NASD, and that at all pertinent times, respondents Duca and Jusko were officers, directors and shareholders of ISI, and were registered with the NASD. Claimant further alleged that, in July 1990, Respondents offered a tax-free investment to Claimant which they maintained would yield an annual interest rate of 10%. Claimant also alleged that he sent Respondents a check in the amount of \$75,000.00, and Respondents sent him a letter confirming that they had invested the money as agreed, but actually invested the money in a business venture in which some or all of the Respondents had a financial interest. Claimant asserted that the respondents have refused to return any part of the money he gave them.

Respondent ISI maintained that the transaction occurred privately between the Claimant and Duca, who acted as an agent for Jusko, not for ISI. Respondent ISI maintained that Claimant had no relationship with ISI at the time specified in the claim.

Respondent Jusko maintained that the transaction complained of took place between the Claimant and Duca, without Jusko's knowledge, and that the Claimant wrongly attempted to impute liability to him by claiming that there was an investment. Jusko further maintained that there was no sale of any security through ISI, but was actually a personal transaction between Claimant and Duca, and that Jusko had no dealings with Claimant. Jusko also maintained that Claimant received periodic statements from ISI, however, the transaction with Duca did not appear in those statements.

Island Securities Cross Claim Against Respondents Duca and Jusko

ISI alleged that all of the actions described in the Statement of Claim were committed by Duca, either individually, or in his capacity as an officer and/or principle in Allvest Corporation ("Allvest"). ISI further alleged that Jusko was fully aware of, and rewarded by these events and transaction, therefore, ISI is entitled to full indemnity from Duca, Jusko, and/or Allvest, jointly and severally, for any liability that may be incurred from these proceedings.

RELIEF REQUESTED

Claimant requested damages in the amount of \$75,000.00 plus 10% interest, and punitive damages.

Respondent ISI requested that Claimant's claim, with respect to ISI, be dismissed in its entirety, and granting it a declaratory judgment on its cross-claims.

Respondent Jusko requested that the claim be dismissed, and that all costs be assessed against the Claimant.

Respondent Duca did not file an answer to the Statement of Claim.

OTHER ISSUES CONSIDERED & 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. Respondents ISI, Jusko and Duca be and hereby are jointly and severally liable and shall pay Claimant the sum of \$75,000.00 in compensatory damages, plus 9% interest in pre-judgement interest from July 28, 1990 to the date of this award.
2. All other claims are hereby 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 \$600 = \$1,200.00

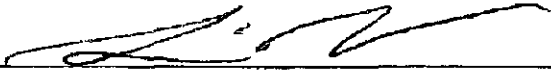
The arbitrators have determined that one-half of the forum fees shall be paid by the Claimant, and one-half of the forum fees shall be paid jointly and severally by the Respondents.

1. Claimant shall pay the sum of \$600.00, representing one-half of the total forum fees assessed. Claimant previously deposited \$300.00 with NASD Regulation, Inc., and, therefore, Claimant shall pay the balance of \$300.00 to NASD Regulation, Inc.
2. Respondents ISI, Jusko and Duca shall jointly and severally pay the sum of \$600.00, representing one-half of the total forum fees assessed.
3. Respondent ISI be and hereby is liable and shall pay the sum of \$500.00 for the filing fee for the cross-claim. Respondent ISI has not submitted the sum of \$500.00 and, therefore, owes the filing fee.
4. Respondent ISI be and hereby is liable and shall pay the sum of \$300.00 for the Member Surcharge. Respondent ISI has previously submitted \$150.00 to NASD Regulation, Inc., and therefore owes \$150.00 for the Member Surcharge.
5. Respondent Jusko be and hereby is liable and shall pay the sum of \$500.00 for the postponement fee. Respondent Jusko has not submitted the sum of \$500.00, and, therefore, owes the postponement fee.

Fees are payable to NASD Regulation, Inc.

ARBITRATORS' SIGNATURES

I, Simon S. Kogan, Esq., do hereby affirm, pursuant to Article 7505 of the Civil Practice Law and Rules, that I am the individual described herein, and who executed this instrument which is my award.



Simon S. Kogan, Esq.
Public Chairperson

I, Leo Cooperman, CPA, do hereby affirm, pursuant to Article 7505 of the Civil Practice Law and Rules, that I am the individual described herein, and who executed this instrument which is my award.

Leo Cooperman, CPA
Public Panelist

I, Norman J. Reich, 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.

Norman J. Reich
Industry Panelist


Date of Decision: October 28, 1997

ARBITRATORS' SIGNATURES

I, Simon S. Kogan, Esq., do hereby affirm, pursuant to Article 7505 of the Civil Practice Law and Rules, that I am the individual described herein, and who executed this instrument which is my award.

Simon S. Kogan, Esq.
Public Chairperson

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Leo Cooperman, CPA
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Public Panelist

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Norman J. Reich
Industry Panelist

Date of Decision:

October 28, 1997