

NASD REGULATION, INC. AWARD

NASD REGULATION, INC.

In the Matter of the Arbitration Between

Name of Claimant

Robert D. O'Brian

96-03917

Name of Respondents

John Bruzzese
Monitor Investment Group Inc.

REPRESENTATION

Claimant, Robert D. O'Brian, Esq. appeared pro se.

For Respondent, John Bruzzese ("Bruzzese") appeared, Darren Lampert, Esq. of the law firm Lampert & Lampert located in New York, New York.

Respondent, Monitor Investment Group Inc. ("Monitor") did not appear at the evidentiary hearing conducted in this matter.

CASE INFORMATION

Statement of Claim filed: October 8, 1996

Claimant's Submission Agreement signed on: August 22, 1996

Respondent Bruzzese's Answer filed on November 19, 1996

Respondent Bruzzese's Submission Agreement signed on: November 18, 1996

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

HEARING INFORMATION

Hearing dates/sessions: March 4, 1997 - One Session

The hearing were held at the offices of NASD Regulation, Inc., located in New York, New York.

CASE SUMMARY

Claimant alleged that on September 13, 1995, Bruzzese, a broker employed by Monitor, telephoned him and stated that his firm had done extensive research on Quaker Oats, and suggested that he buy the stock since the research indicated that Quaker Oats was going to be taken over. Claimant alleged that after some discussion he agreed to purchase 300 shares of Quaker Oats; however, he informed Bruzzese that he wanted to see copies of the research before he purchased any stock.

Claimant alleged that the next day he received a confirmation for the purchase of 300 shares of Quaker Oats but did not receive any research. Claimant alleged that he called Monitor to complain and was told that the research would be faxed to him. Claimant alleged that he subsequently received the research on Quaker Oats which consisted of only a news article and a computer printout of the company's latest financial reports.

Claimant alleged that he called Bruzzese to complain that he was misled as to the type of research Monitor had conducted and informed Bruzzese that he was paying for the stock only to minimize his damages. Claimant alleged that he informed Bruzzese that he wanted the stock transferred to him since he no longer trusted Bruzzese or Monitor with his money or securities.

Claimant alleged that he called Manny Genuso, a principal of Monitor, to complain and demand that his stock be transferred. Claimant alleged that it took over a month for the Respondents to transfer the stock to him. Claimant alleged that the delay resulted in a lost of \$1,046.17 including commissions.

Respondent Bruzzese entered a general denial in response to the Statement of Claim.

RELIEF REQUESTED

Claimant requested damages in the amount of \$1,046.17 in addition to punitive damages.

Respondent, John Bruzzese, requested that the Statement of Claim be dismissed in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

1. The arbitrator made the following rulings concerning Respondent, Monitor Investment Group, Inc., which failed to appear at the evidentiary hearing conducted in this matter:
 - a. Pursuant to Rule 10101 of the Code of Arbitration Procedure, the arbitrator found subject matter jurisdiction over this entire controversy.
 - b. The arbitrator found that the Respondent, Monitor investment Group, Inc., was a member of the NASD at the time the controversy arose. Consequently, the arbitrator found personal jurisdiction over the Respondent, Monitor Investment Group, Inc., pursuant to Rule 10301 of the Code of Arbitration Procedure.
 - c. In view of (b) above, the arbitrator found that Respondent, Monitor Investment Group, Inc., was required to file with NASD Regulation, Inc., a Statement of Answer and a properly executed Submission Agreement pursuant to Rule 10314(b) of the Code of Arbitration Procedure. In this regard, the arbitrator found that the Statement of Claim was properly served upon the Respondent, Monitor Investment Group, Inc., pursuant to Rule 10314(a) of the Code of Arbitration Procedure.

- d. In addition, in accordance with Rules 10310, 10315 and 10318 of the Code of Arbitration Procedure, the arbitrator found that NASD Regulation, Inc., provided Respondents, Monitor Investment Group, Inc., with "due notice" of the hearing conducted in this matter by regular and certified mail. The arbitrator, therefore, determined to proceed with the hearing without Respondent, Monitor Investment Group, Inc., whose absence was unexcused.
2. Prior to the commencement of the hearing the Claimant informed NASD Regulation, Inc., that he settled all claims asserted against Respondent, John Bruzzese, and released him from this matter.
3. 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 arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent, Monitor Investment Group, Inc., is liable and shall pay to the Claimant the sum of \$1,046.17;
2. Respondent, Monitor Investment Group, Inc., is liable and shall pay to the Claimant the sum of \$25.00 representing reimbursement of the hearing session deposit paid by Claimant; and,
3. Claimant's request for punitive damages is denied.

FORUM FEES

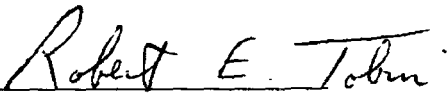
Pursuant to Rule 10332 of the Code of Arbitration Procedure, the arbitrators have determined that NASD Regulation, Inc. shall retain the \$25.00 non-refundable filing fee previously deposited by the Claimant and have assessed the following forum fees:

Total Forum Fees:	\$25.00	(1 Session x \$25.00)
-------------------	---------	-----------------------

1. Respondent, Monitor Investment Group, Inc., is assessed the sum of \$25.00 representing the total forum fees due. Claimant previously deposited \$25.00 for hearing costs, therefore, Respondent, Monitor Investment Group, Inc., shall reimburse the Claimant, Robert D. O'Brian, the sum of \$25.00.

ARBITRATOR'S SIGNATURE

I, **Robert E. Tobin**, 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 decision in the above-referenced matter.


Robert E. Tobin

Date of Decision: JUNE 11, 1997