

NASD REGULATION AWARD

NASD REGULATION, INC.

In the Matter of the Arbitration Between

Name of Claimant

Alfred Bornemann

96-04046

Name of Respondents

Investors Associates, Inc
Steven Cohen

REPRESENTATION

For Claimant, Alfred Bornemann ("Claimant"), appeared Anthony J. Horn, Esq. located in Philadelphia, Pennsylvania.

For Respondents, Investors Associates, Inc. ("IAI") and Steven Cohen ("Cohen") (collectively the "Respondents"), appeared David Sayid, Esq. of the law firm Sayid and Associates located in Hackensack, New Jersey.

CASE INFORMATION

Statement of Claim filed: September 17, 1996.

Claimant's Submission Agreement signed on: May 3, 1996.

Joint Statement of Answer filed by Respondents on: October 10, 1996.

Respondent did not file a Submission Agreement as required by Rule 1031(b) of the Code of Arbitration Procedure.

HEARING INFORMATION

Hearing dates/sessions: March 20, 1997 - Two Sessions

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

CASE SUMMARY

Claimant alleged that he was 55 years old, single with total liabilities of \$50,000.00 and no assets. Claimant further alleged that, in November 1995, he opened an account with IAI through its registered representative Cohen. Claimant also alleged that he used his credit card account to make a \$35,000.00 investment in securities recommended by Cohen and the value of the account is now \$3,000.00.

Claimant asserted that his investment goals were low risk and long term growth. Claimant further asserted that Cohen did not disclose the risks associated with the securities he recommended and misrepresented that they would have a very high return at the end of the year. Claimant also asserted that, from November to December 1995, Cohen recommended and solicited him to purchase stock in Acclaim entertainment, Apple computer, Regeneron Pharmaceutical and Standard Microsystems all resulting in significant losses. Claimant contended that, in late December 1995, Cohen called him and said he owed \$8,600.00 and he would have to pay or he would be taken to court. Claimant further contended that he paid the money with his credit card. Claimant also contended that Respondents recommended unsuitable trades in light of Claimants expressly stated conservative investment objectives. Claimant maintained that Respondents are guilty of fraudulent misrepresentation and omissions by failing to disclose the risks in the purchase and sale of securities they recommended. Claimant further maintained that Cohen engaged in unauthorized trading by fraudulently obtaining Claimant's consent through the misrepresentation and omissions described above. Claimant also maintained that Cohen churned his account by recommending and effecting trades for the primary purpose of generating commissions. Claimant alleged that Respondents' actions constituted: negligence; breach of contract; breach of fiduciary duty; violation of federal and state securities laws and violations of the rules and regulations of the NASD. Claimant further alleged that IAI is independently liable to him because of its failure to reasonable supervise Cohen.

Respondents maintained that, upon the opening of his account, Claimant stated he was quite knowledgeable in the securities industry, he had securities accounts at other broker dealers, and that he knew the "ins and outs" of the securities industry. Respondents further maintained that Cohen never represented that the Claimant would have a high return by the end of the year or that he would have to pay \$8,000.00 or be taken to court. Respondents also maintained that Claimant repeatedly stated to Cohen: "I don't care, I don't care, just make me money." Respondents contended that had there been fraud, churning or unauthorized trading, Claimant would have stopped conducting business with them. Respondents further contended that: Claimant fails to state a claim for which relief may be granted; Claimant authorized the purchase and sale of all transactions and assumed the risk of the transactions; and Claimant had full knowledge of all material facts concerning his securities accounts.

RELIEF REQUESTED

Claimant requested \$32,000.00 in compensatory damages plus interest from the date the losses were incurred to the date of the arbitration, attorneys' fees, costs and any other relief the panel may deem just and fair.

Respondents requested that the Statement of Claim be denied in its entirety; an award of costs, fees, expenses and reasonable attorneys' fees of at least \$5,000.00 and such other and further relief as may be just.

OTHER ISSUES CONSIDERED AND 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. **Claimant's claims are dismissed in their entirety**
2. **All requests for attorney fees are denied.**
3. **All other requests for relief are denied.**

FORUM FEES

Pursuant to Rule 10332 of the Code of Arbitration Procedure, the arbitrators have determined that NASD Regulation, Inc. shall retain the \$120.00 non-refundable filing fee previously deposited by the Claimant and have assessed the following forum fees:

2 Hearing Sessions x \$400 = \$800.00

Claimant, Alfred Bornemann, is hereby liable and shall pay to NASD Regulation, Inc. \$400.00 representing one-half of the total amount of forum fees assessed. Claimant previously deposited \$400.00 dollars to NASD Regulation, Inc. Therefore, Claimant, Alfred Bornemann, owes nothing by way of forum fees.

Respondents, Investors Associates, Inc. and Steven Cohen, are jointly and severally liable for \$400.00 representing one-half of the forum fees assessed. Therefore, Respondents, Investors Associates, Inc. and Steven Cohen, shall pay to NASD Regulation, Inc. the sum of \$400.00.

Fees are payable to NASD Regulation, Inc.

ARBITRATORS' SIGNATURES

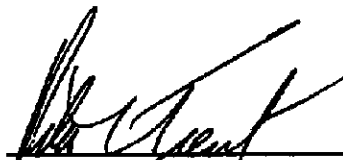
I, Diane Getzler, Esq., do hereby affirm, pursuant to article 7507 of the Civil Practice Law and Rules, that I am the individual described herein, and who executed this instrument which is my award.

Diane Getzler, Esq.

I, Eugene J. McCabe, Esq., 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.

Eugene J. McCabe, Esq.

I, Peter C. Trent, 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.



Peter C. Trent

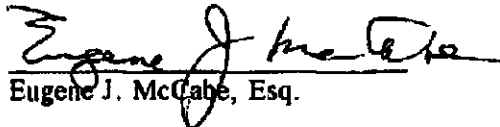
Date of Decision: May 2, 1997

ARBITRATORS' SIGNATURES

I, Diane Getzler, Esq., 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.

Diane Getzler, Esq.

I, Eugene J. McCabe, Esq., 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.



Eugene J. McCabe, Esq.

I, Peter C. Trent, 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.

Peter C. Trent

Date of Decision:

May 2, 1997

ARBITRATORS' SIGNATURES

I, Diane Getzler, Esq., 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.

Diane Getzler, Esq.
Diane Getzler, Esq.

I, Eugene J. McCabe, Esq., 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.

Eugene J. McCabe, Esq.

I, Peter C. Trent, 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.

Peter C. Trent

Date of Decision:

May 2, 1997