

NASD REGULATION AWARD

In the Matter of the Arbitration Between

Name of Claimants

Frank M. and Theodora Pellicane
Theodora Pellicane

96-04951

Name of Respondents

Christopher McNamara
Timothy Matthews
John Massaro
Sterling Foster & Co., Inc.

REPRESENTATION

For Claimant's Frank and Theodora Pellicane ("Claimants") appeared William J. Cunningham, III, Esq., of the law firm Meyer, Suozzi, English & Klein, P.C., located in Mineola, New York.

For Respondents Christopher McNamara ("McNamara"), Timothy Matthews ("Matthews"), John Massaro ("Massaro") and Sterling Foster & Co. ("Sterling") (collectively referred to as "Respondents") appeared Justin Sacca, Esq., of the Law Offices of Joseph D'Elia, located in Huntington, New York.

CASE INFORMATION

Statement of Claim filed: November 6, 1996.

Claimant's Submission Agreement signed on: November 5, 1996.

Joint Statement of Answer filed by Respondents on: January 13, 1997.

Respondent, McNamara's Submission Agreement signed on: January 7, 1997.

Respondent, Matthews' Submission Agreement signed on: January 7, 1997.

Respondent, Massaro's Submission Agreement signed on: January 20, 1997.

Respondent, Sterling's Submission Agreement signed on: January 7, 1997.

HEARING INFORMATION

Hearing Dates/Sessions:	May 5, 1997	-	Two Sessions
	June 23, 1997	-	Two Sessions

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

CASE SUMMARY

Claimant alleged that, in the summer of 1996, he opened an account with Sterling through respondent Massaro. Claimant further alleged that Massaro aggressively solicited him to buy, but that after making investments in MEDI, Lasergate and MLDR common stock, he later discovered that Massaro had falsely represented the stock's growth potential and entered unauthorized transactions. Claimant also alleged that Massaro was fired by Sterling and was replaced by respondent McNamara who refused to sell when directed and threatened to close his account if he did sell. Claimant asserted that when the sales were consummated McNamara failed to send him a check. Claimant further asserted that three weeks later McNamara claimed that he had never been asked to send a check. Claimant also asserted that respondent Matthews failed to properly supervise McNamara and refused to sell at his request.

Respondents maintained that claimant was an experienced investor. Respondents further maintained that claimant sought speculative investments at Sterling. Respondents denied making unauthorized transactions, noting that claimant had statements for all transactions that took place. Respondents also denied refusal to carry out a direction to sell stock and maintained that the taped conversation between claimant and McNamara contained no such admission. Respondents maintained that all risks and possible benefits of each investment were discussed with claimant.

RELIEF REQUESTED

Claimant requested damages of \$50,000.00.

Respondents requested that the Claim be dismissed in its entirety.

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 original remains 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 Sterling, Massaro and McNamara be and hereby are jointly and severally liable and shall pay Claimant damages in the sum of \$10,000.00.
2. Respondent Sterling be and hereby is liable and shall pay Claimant damages in the additional sum of \$10,000.00.
3. All claims against Respondent Matthews are dismissed in their entirety.
4. Respondent Sterling be and hereby is liable and shall pay Claimant the sum of \$400.00 to reimburse Claimant for a portion of the filing fees previously deposited with NASD Regulation, Inc.
5. All other claims are dismissed in their entirety.

FORUM FEES

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

$$4 \text{ sessions} \quad \times \quad \$400.00 \quad = \quad \$1,600.00$$

Respondent Sterling be and hereby is liable and shall pay the sum of \$1,600.00, representing the total amount of forum fees assessed. Claimant previously deposited \$400.00 with NASD Regulation, Inc. Therefore, Respondent Sterling Foster & Co., Inc., shall pay Claimant the sum of \$400.00 as provided in the "Award" section above and shall pay the balance of \$1,200.00 to NASD Regulation Inc.

ARBITRATOR'S SIGNATURES



Robert Pincus, Esq.
Public Arbitrator - Chairperson



I, Robert Pincus, 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.

Joseph F. Lynch, Esq
Public Arbitrator

I, Joseph F. Lynch, 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.

John W. Thomas
Industry Arbitrator

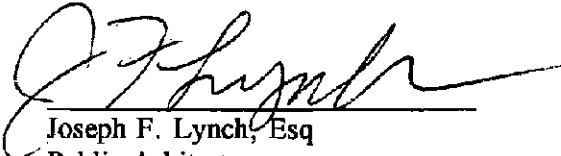
I, John W. Thomas, do hereby affirm, pursuant to article 7507 of the Civil Practice Law and Rules, that I am the individual described herein, and who executed this instrument which is my award.

Date of Decision: January 15, 1998

ARBITRATOR'S SIGNATURES

Robert Pincus, Esq.
Public Arbitrator - Chairperson

I, Robert Pincus, 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.



Joseph F. Lynch, Esq.
Public Arbitrator



I, Joseph F. Lynch, 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.

John W. Thomas
Industry Arbitrator

I, John W. Thomas, 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.

Date of Decision: January 15, 1998

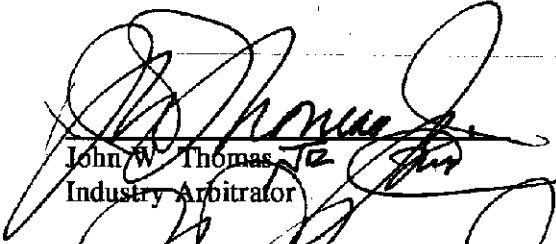
ARBITRATOR'S SIGNATURES

Robert Pincus, Esq.
Public Arbitrator - Chairperson

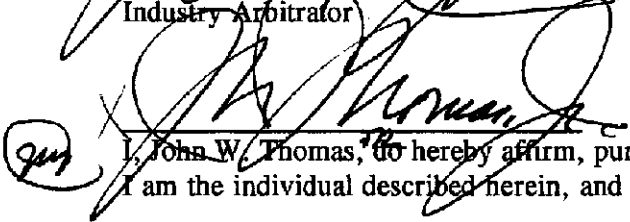
I, Robert Pincus, Esq., do hereby affirm, pursuant to article 7507 of the Civil Practice Law and Rules, that I am the individual described herein, and who executed this instrument which is my award.

Joseph F. Lynch, Esq
Public Arbitrator

I, Joseph F. Lynch, 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.



John W. Thomas, Jr.
Industry Arbitrator


I, John W. Thomas, 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.

Date of Decision: January 15, 1998