

NASD REGULATION, INC.
AWARD

In the Matter of the Arbitration Between

Name of Claimant

Louis D. Giacalone

96-04980

Names of Respondents

Greenway Capital Corporation
Guiseppe Temporino
Jason Anthony Prussing

REPRESENTATION

For Claimant Louis D. Giacalone ("Claimant") appeared John J. Lynch, Esq., a private practitioner with offices located in New York, New York.

Respondent Greenway Capital Corporation ("Greenway") did not enter an appearance in this matter.

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

Respondent Jason Anthony Prussing ("Prussing") appeared pro se.

CASE INFORMATION

Claimant's Statement of Claim was filed on November 7, 1996. Claimant's Submission Agreement was signed on December 3, 1996.

Greenway did not file a Statement of Answer and a Submission Agreement.

A Statement of Answer was filed by Temporino on January 13, 1997. Temporino's Submission Agreement was signed on January 13, 1997.

A Statement of Answer was filed by Prussing on February 25, 1998. Prussing did not file a Submission Agreement.

HEARING INFORMATION

Hearing Date/Sessions:

March 11, 1998

- Two Sessions

The hearing was conducted at the offices of NASD Regulation, Inc. located in New York, New York.

CASE SUMMARY

Claimant alleged that Respondents engaged in high-pressure sales tactics to convince him to purchase unsuitable, inappropriate and highly-speculative securities in little-known companies for whom Greenway was a "market maker." Claimant also alleged that Respondents did not undertake a thoughtful, reasoned analysis of his investment needs or abilities, failed to provide him with material information regarding the securities despite his repeated requests, and ignored his instructions to sell the securities as they dropped in price. Claimant further alleged that Greenway opened a new account in his name without his authorization, and, in doing so, forged his signature and misrepresented his investment objectives and other material personal information on a new account form. Claimant further alleged that Greenway failed to supervise and/or negligently supervised its registered representatives.

Temporino denied all liability claimed by Claimant from alleged misrepresentation, fraud, unsuitable investment recommendations, failure to sell, unauthorized trades or in any other manner in connection with the transactions effected for or through Claimant's account. Temporino maintained that he, at all times, operated fully within the provisions of all applicable federal and state laws concerning securities transactions by registered representatives and in accordance with industry rules and customs. Temporino also maintained that he did not recommend unsuitable securities for Claimant's account and did not misrepresent or fail to disclose material facts concerning Claimant's investments. Temporino further maintained that he did not fail to execute any sell orders given by Claimant and did not effectuate unauthorized transactions in Claimant's account. Temporino asserted that Claimant had knowledge of and assumed the risks of investing in the securities market, and that any damages sustained by Claimant were caused by and arose out of such risks.

Prussing maintained that his dealing with Claimant was limited to one telephone conversation during the last week of April 1996. Prussing also maintained that he contacted Claimant at the request of Ron Bozan ("Bozan"), Greenway's Compliance Officer, because Claimant had notified Bozan that his registered broker, Temporino, would not return his calls. Prussing further maintained that, during his telephone conversation with Claimant, Claimant stated that, although he appreciated his telephone call, he could not be of any assistance to him and asked that Temporino call Claimant back. Prussing contended that his contact with Claimant ended after this telephone conversation.

RELIEF REQUESTED

Claimant requested damages in the amount of \$36,550.00, plus punitive damages and reasonable attorneys' fees.

Temporino requested that Claimant's claims be dismissed in their entirety and such further relief as was just.

Prussing requested that he be dismissed as a Respondent in this action.

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.

Prior to the hearing, Claimant settled his claim against Temporino.

The panel made the following determinations concerning Greenway, who did not file a Statement of Answer and a Submission Agreement and did not appear at the hearing in this matter and Prussing, who did not file a Submission Agreement:

1. Pursuant to Rule 10101 of the Code of Arbitration Procedure (the "Code"), the panel found subject matter jurisdiction over this entire controversy.
2. The panel found that Greenway was a member of the NASD at the time this controversy arose and that Prussing was a person associated with a member of the NASD at the time this controversy arose. Accordingly, the panel found personal jurisdiction over Greenway and Prussing pursuant to Rule 10301 of the Code.
3. The panel found that Greenway was required to file a Statement of Answer and a Submission Agreement with NASD Regulation, Inc. and that Prussing was required to file a Submission Agreement pursuant to Rule 10314(b) of the Code. In this regard, the panel found that the Statement of Claim was properly served upon Greenway and Prussing, pursuant to Rule 10314(a) of the Code.
4. In addition, in accordance with Rules 10310, 10315, and 10318 of the Code, the panel found that NASD Regulation, Inc. provided Greenway with "due notice" of the hearings conducted in this matter by regular and certified mail. The panel further determined to proceed with the hearing without Greenway, whose absence was unexcused.

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 deter-

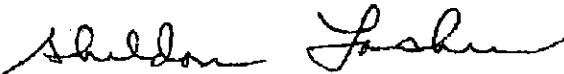
Arbitrators' Signatures

A handwritten signature in cursive script, reading "Sheldon Lasher", written over a horizontal line.

Sheldon Lasher
Industry Arbitrator

Date of decision: April 24, 1998

I, Sheldon Lasher, 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.

A handwritten signature in cursive script, reading "Sheldon Lasher", written over a horizontal line.

Sheldon Lasher

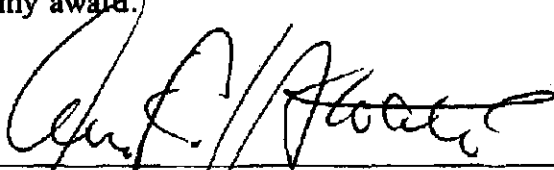
Arbitrators' Signatures

A handwritten signature in cursive script, appearing to read "Alan R. Sloate", written over a horizontal line.

Alan R. Sloate, Esq.
Chairperson - Public Arbitrator

Date of decision: April 24, 1998

I, Alan R. Sloate, 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.

A handwritten signature in cursive script, appearing to read "Alan R. Sloate", written over a horizontal line.

Alan R. Sloate, Esq.

mination as follows:

1. Greenway is hereby liable and shall pay to Claimant compensatory damages in the amount of \$33,531.00.
2. Greenway is hereby liable and shall pay to Claimant attorneys' fees in the amount of \$7,500.00.
3. All claims against Prussing are hereby dismissed in their entirety.
4. The parties shall bear their respective costs, including attorneys' fees, except that Greenway is hereby liable and shall pay to Claimant the sum of \$400.00 to reimburse Claimant for the hearing session deposit paid to NASD Regulation, Inc.
5. All other requests for relief are hereby denied.

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 the \$200.00 member surcharge previously paid by Greenway. In addition, the arbitrators have assessed the following forum fees:

$$2 \text{ hearing sessions} \times \$400.00 = \$800.00$$

Greenway is hereby liable for the sum of \$800.00, representing the total amount of forum fees assessed for the hearings conducted in this matter. Claimant previously deposited \$400.00 with NASD Regulation, Inc., and, therefore, Respondent shall pay the balance of \$400.00 to NASD Regulation, Inc. and \$400.00 to Claimant as provided in the "Award" section above.

Fees are payable to NASD Regulation, Inc.