

NASD REGULATION AWARD

In the Matter of the Arbitration Between

Name of Claimants

Kalman and Sara Fainzylber

96-05068

Name of Respondent

Oscar Echman

REPRESENTATION

Claimants Kalman and Sara Fainzylber ("Claimants") appeared pro se.
Respondent Oscar Echman ("Respondent") appeared pro se.

CASE INFORMATION

Statement of Claim filed on: November 13, 1996.
Claimants' Submission Agreement signed on: November 25, 1996.

Statement of Answer filed by Respondent on: January 21, 1997.
Respondent's Submission Agreement signed on: January 15, 1997.

Statement of Claim filed
Claimants' Submission Agreement

Statement of Answer filed
Respondent's Submission Agreement

HEARING INFORMATION

Hearing date/sessions: May 7, 1997 - One Session
The hearing was held at the offices of NASD Regulation, Inc. located in New York, New York.

CASE SUMMARY

Claimant alleged that he never gave any express authority to respondent to sell or buy stock for investment purposes. Claimant maintained that, on July 24, 1996, respondent, without claimant's consent or approval, bought 1000 shares of Bally Entertainment for \$12,577.00. Claimant further maintained that, on the same date, respondent sold the same stock for a total of \$11,182.62, for a loss of \$1,394.38. In addition, claimant contended that, on the same date, respondent sold 250 shares of Bally Fitness for a total of \$1,213.00. Claimant further contended he did not authorize this sale, furthermore he had sold all shares in that stock in February. Claimant alleged that, somewhere between February and July, respondent purchased Bally Fitness shares without his consent or knowledge. Claimant maintained that, on July 24, 1996, respondent bought back the Bally Fitness shares for a total of \$1,064.50, leaving a gain of \$148.50. Claimant further maintained that, in the course of the four transactions conducted without his permission, there was a total loss of \$1,245.88, which respondent claims claimant owes him. Claimant maintained that he does not owe this money to respondent because he never authorized these transactions.

Respondent alleged that Claimants' accusation of unauthorized trading was unfounded. Respondent maintained that the trades in question were exercises and assignments of short option positions and long positions in the money. Respondent further maintained that the loss which Claimants are claiming never existed.

RELIEF REQUESTED

Claimants requested damages of at least \$1,245.88.

Respondent requested that the Statement of Claim be dismissed.

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. Claimants' claims are dismissed.
2. 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 \$25.00 non-refundable filing fee previously deposited by the claimants and have assessed the following forum fees:

1 Hearing Session


x

\$25.00

\$25.00


Claimants be and hereby are liable for the sum of \$25.00 representing the forum fees assessed. Claimant previously deposited \$25.00 with NASD Regulation, therefore claimants owe nothing in forum fees.

ARBITRATOR'S SIGNATURE



Neil J. Carey
Public Arbitrator - Chairperson

I, Neil J. Carey, 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.



Neil J. Carey

Date of Decision: July 31, 1997