

NASD REGULATION AWARD

In the Matter of the Arbitration Between

Name of Claimant

George Frangias

96-05117

Name of Respondents

PaineWebber, Inc.
Glenn F. O'Neill

REPRESENTATION

For claimant George Frangias ("claimant") appeared Richard W. Vallario, Esq., with law offices in Nutley, New Jersey.

For respondents PaineWebber, Inc. ("PW") and Glenn F. O'Neill (O'Neill) (collectively, "respondents") appeared Lisa Catalano Tillem, Esq., Divisional Vice President for PW, in New York, New York.

CASE INFORMATION

Statement of Claim was filed on: November 13, 1996.

Claimant's Submission Agreement was signed on: November 4, 1996.

Joint Statement of Answer was filed by respondents on: January 10, 1997.

Respondent PW's Submission Agreement was signed on: January 10, 1997.

Respondent O'Neill's Submission Agreement was signed on: December 6, 1996.

HEARING INFORMATION

Hearing Date/Sessions:

May 7, 1997

2 sessions

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

CASE SUMMARY

Claimant alleged that, in or about 1993, he opened an account at PW and that, for several years after the opening purchases, no other transactions were made in his account. Claimant also alleged that Scott Scarpelli was his initial account executive and that O'Neill never advised him

that he had been assigned to handle his account.

Claimant maintained that, O'Neill contacted his business, on or about March 14, 1996, and spoke with claimant's cousin who had the same name, George Frangias, and who spoke heavily accented and limited English. Claimant contended that, because O'Neill had never previously introduced himself to claimant, O'Neill improperly and mistakenly solicited an order from his cousin to sell his existing stock positions and to purchase Cypress Semiconductor ("Cypress"). In addition, claimant alleged that, upon becoming aware of the unauthorized transactions, he contacted respondents and demanded that they correct the error and reinstate his immediate positions, but respondents refused.

Based upon the foregoing, claimant maintained that respondents breached their obligations to him to know their customer, to exercise reasonable care and diligence in the handling of his account, to maintain adequate safeguards and mechanisms to assure that telephone solicitations were directed to the proper account customer, and to promptly and expeditiously correct errors that they made in the handling of his account.

Respondents alleged that, in or about December, 1994, after O'Neill became claimant's investment executive he contacted claimant to introduce himself. Respondents maintained that, commencing with the December, 1994 monthly account statement, O'Neill appeared as claimant's investment executive. Respondents further contended that O'Neill and claimant had had several telephone conversations prior to the trades in question to discuss different investment ideas. In addition, respondents alleged that claimant never mentioned that he had an identically named cousin working at the same business and that when O'Neill called claimant's business he was never asked with which George Frangias he wanted to speak. Respondents also maintained that, on March 11, 1996, when O'Neill called and spoke with George Frangias, it was clear to him that he was speaking with claimant, the same George Frangias he had spoken with before.

Respondents contended that when O'Neill spoke with claimant he explained that the purpose of his call was to discuss a possible investment alternative for the three penny stocks. Respondents also alleged that O'Neill suggested Cypress to claimant, informed claimant that PW's analyst believed that the stock had enormous growth potential, and that they discussed Cypress' latest earnings and PW's forecast for future earnings. Respondents maintained that, thereafter, claimant instructed O'Neill to sell all of his shares of the three penny stocks and to purchase as many shares of Cypress as he could with the proceeds. Respondents further alleged that, on or about March 28, 1996, more than two weeks after the transactions which were directed by claimant were executed, claimant called O'Neill and told him that a mistake had occurred, that he did not want the Cypress stock, and that he wanted his other stocks back.

In addition, respondents maintained that it was at this time that claimant first informed O'Neill that O'Neill had not spoken with him, but with his cousin who goes by the same name and who sounds just like him. Furthermore, respondents alleged that when they investigated the complaint their request to speak with claimant's cousin was refused and claimant's story changed. Respondents maintained that, since they were unable to verify claimant's story, they denied claimant's request to reinstate his account at no cost to him.

RELIEF REQUESTED

Claimant requested damages in the amount of \$20,000.00 plus attorneys' fees, interest and the costs of arbitration.

Respondents requested that the Statement of Claim be dismissed in its entirety and that the panel award respondents its costs and fees.

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 originals remain on file with NASD Regulation, Inc.

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:

Respondents be and hereby are liable and shall pay claimant the sum of **THREE THOUSAND TWO HUNDRED FIFTEEN DOLLARS and FIFTY CENTS** (**\$3,215.50**).

2. Claimant's request for interest and attorneys' fees is hereby denied.

3. Each party shall bear their respective costs.

FORUM FEES

Pursuant to Rule 10332(c) of the Code of Arbitration Procedure, the arbitrators have determined that NASD Regulation, Inc. shall retain the \$100.00 non-refundable filing fee and have assessed the following forum fees:

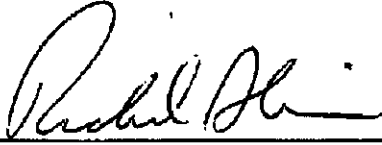
2 hearing sessions x \$400.00 = \$800.00

1. Claimant be and hereby is liable for the amount of \$400.00, representing one-half of the total amount of forum fees assessed. Claimant previously deposited \$400.00 with NASD Regulation and, therefore, owes no forum fees.

2. Respondents be and hereby are jointly and severally liable for and shall pay to NASD Regulation the amount of \$400.00, representing one-half of the total amount of forum fees assessed.

Fees are payable to NASD Regulation, Inc.

Arbitrators' Signatures



Richard Slavin, Esq.
Chairperson--Public Arbitrator

Joseph M. Perillo
Public Arbitrator

Harry J. Lundgren, Jr.
Industry Arbitrator

Date of Decision: July 15, 1997

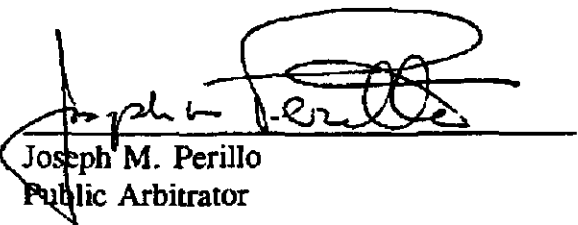
I, Richard Slavin, Esq., do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein who executed this instrument which is my award.



Richard Slavin, Esq.

Arbitrators' Signatures

Richard Slavin, Esq.
Chairperson--Public Arbitrator



Joseph M. Perillo
Public Arbitrator

Harry J. Lundgren, Jr.
Industry Arbitrator

Date of Decision: July 15, 1997

I, **Joseph M. Perillo**, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein who executed this instrument which is my award.



Joseph M. Perillo

Arbitrators' Signatures

Richard Slavin, Esq.
Chairperson--Public Arbitrator

Joseph M. Perillo
Public Arbitrator



Harry J. Lundgren, Jr.
Industry Arbitrator

Date of Decision: July 15, 1997

I, Harry J. Lundgren, Jr., do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein who executed this instrument which is my award.



Harry J. Lundgren, Jr.