

10/9/97

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AWARD

NASD REGULATION, INC., OFFICE OF DISPUTE RESOLUTION

In the matter of the Arbitration Between

Name of Claimant

Howard Gensler

v.

Arbitration No.
96-05578

Name of Respondent

John Hiers

REPRESENTATION

For Claimant:

Mr. Howard Gensler
Pro Se
Costa Mesa, California

For Respondent:

Mr. John Hiers
Pro Se
Canyon Lake, California

CASE INFORMATION

Statement of Claim filed:

November 7, 1996

Claimant's Submission Agreement signed:

November 4, 1996

Statement of Answer filed by Respondent:

On or about April 7, 1997

HEARING INFORMATION

Pre-Hearing Conference Dates/Sessions:

May 15, 1997 (1 session)

Hearing Dates/Sessions:

August 19, 1997 (2 sessions)

Hearing Location:

Los Angeles, California

CASE SUMMARY

Claimant alleged that Respondent committed breach of fiduciary duty, churning, negligence, reckless conduct and violations of various statutory laws. Specifically, Claimant asserted that Respondent failed to disclose the highly risky nature of his trading strategy to Claimant. Claimant further alleged that Respondent misrepresented material facts regarding Claimant's account, made unauthorized trades in the account, churned the account for excessive commissions and intentionally ignored the account to Claimant's economic detriment.

Respondent denied Claimant's claims in their entirety. Specifically, Respondent stated that Claimant gave Respondent full discretion to trade in Claimant's account and approved the trading tactics Respondent employed and the investments Respondent purchased.

RELIEF REQUESTED

Claimant requested \$23,110.00 in compensatory damages, \$32,110.00 in lost profits and \$44,780.00 in punitive damages.

Respondents sought dismissal of Claimant's claim in its entirety, costs, assessment of forum fees against Claimant, and expungement of his CRD record.

OTHER ISSUES CONSIDERED AND DECIDED

The parties have agreed that the Award in this matter may be executed in either 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 Regulation, Inc. Office of Dispute Resolution.

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. Respondent is liable to and shall pay Claimant the sum of \$5,687.50.
2. Claimant's claim for punitive damages is denied.
3. Respondent's request for expungement is denied.
4. The parties shall each bear their respective costs, including attorney's fees.

FORUM FEES

Pursuant to Rule 10332(c) of the Code of Arbitration Procedure, the following forum fees are assessed against Respondent:

One (1) Pre-Hearing Conference @ \$500.00/Session	= \$500.00
<u>Two (2) Hearing Sessions @ \$500.00/Session</u>	<u>= \$1,000.00</u>
Total Forum Fees Assessed	= \$1,500.00

Respondent's Balance Due	= \$1,500.00
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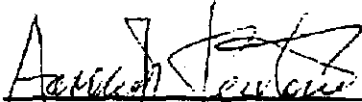
Claimant's Hearing Session Deposit of \$500.00 shall be refunded by NASD Regulation, Inc.

Fees are payable to NASD Regulation, Inc.

ARBITRATORS

<u>Name</u>	<u>Public/Industry</u>
Aaron J. Fenton	Public Arbitrator
Andrew J. Sorenson	Industry Arbitrator
David J. Anderson	Public Arbitrator

Concurring Arbitrators' Signatures



Aaron J. Fenton, E

Andrew J. Sorenson

David J. Anderson

Date of Service: 23 October 1997

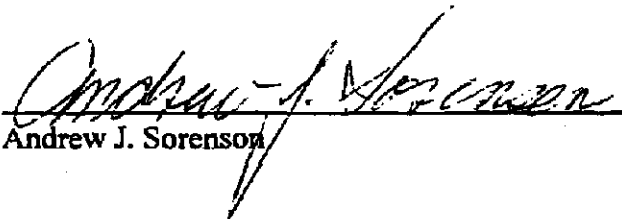
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Andrew J. Sorenson	Industry Arbitrator
David J. Anderson	Public Arbitrator

Concurring Arbitrators' Signatures

Aaron J. Fenton



Andrew J. Sorenson

David J. Anderson

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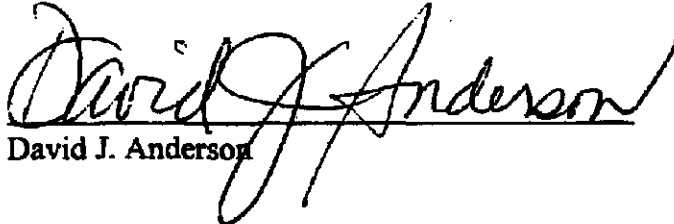
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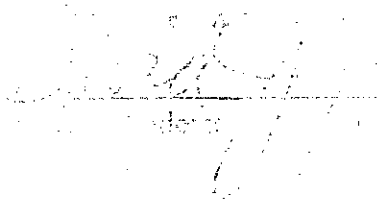
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Andrew J. Sorenson



David J. Anderson



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Date of Service: 23 October 1997