

STIPULATED AWARD

NASD Regulation, Inc. Office of Dispute Resolution

In the Matter of the Arbitration Between

Alex Maul,

Claimant,

v.

No. 96-05808

Rocco Guidici Pietro, and
State Street Capital Markets Corp.,

Respondents.

REPRESENTATION OF PARTIES

For Claimant Alex Maul ("Claimant"): David H. Zimmer, Esq., located at Two Greenwich Plaza, Greenwich, CT.

For Respondent Rocco Guidici Pietro ("Guidici Pietro"): Hayward Richard Pressman, Esq., Pressman & Associates, located at 158 East 35th Street, New York, NY.

For Respondent State Street Capital Markets Corp. ("State Street"): John Doukas, State Street Capital Markets Corp., One World Trade Center, Suite 4047, New York, NY.

CASE INFORMATION

Statement of Claim filed: December 26, 1996

Claimant's Submission Agreement signed on: December 20, 1996

Respondent Guidici Pietro's Answer filed on: March 11, 1997

Respondent Guidici Pietro's Submission
Agreement signed on: February 6, 1997

HEARING INFORMATION

Pre-hearing Conference: None

Hearing Date(s)/Sessions: Not Applicable

Hearing Location: Not Applicable

CASE SUMMARY

Claimant alleged that in August 1995 he opened an account at State Street, and that Guidici Pietro was the account executive responsible for the account at all times until it was closed in November 1996.

Claimant alleged that soon after he opened his account at State Street, the trading in the account became excessive, and that in the period between August 1995 and November 1996, the turnover rate in the account was 6.0 times. Claimant further alleged that the investments in his account were unsuitable for a person in Claimant's position, and that Guidici Pietro committed fraud and misrepresentation in making statements regarding the nature, value and safety of the securities in the account.

Claimant alleged that State Street was negligent in failing to supervise Guidici Pietro, that State Street breached its contract with Claimant, and its fiduciary duty owed to Claimant, and that State Street was liable for failure to supervise Guidici Pietro.

Respondent Guidici Pietro maintained that he did not at any time engage in excessive trading in Claimant's account, and that the trades were made pursuant to Claimant's stated investment objective of speculation, growth and short term trading. Furthermore, Guidici Pietro maintained that all trades in Claimant's account were suitable for Claimant based upon Claimant's stated objective and his sophistication as an investor. In addition, Guidici Pietro maintained that no fraud or misrepresentation occurred with respect to Claimant's account.

Guidici Pietro also stated in his answer that any loss incurred by Claimant was not due to the actions of Guidici Pietro but rather were the result of State Street's failure to fulfill the NASD's net capital requirements, followed by a resulting halt in trading and loss in value in Claimant's account. Any such decline in value, maintained Guidici Pietro, was because many of the securities in Claimant's account were house stocks, and that State Street did not invest needed capital to support the market in these house stocks, therefore causing any decline in value.

RELIEF REQUESTED

Claimant requested damages in the amount of the approximate commissions generated, \$13,117.00, plus margin interest charges of \$1,767.00, or in the alternative, Claimant's

alleged out-of-pocket losses of \$8,508.00. Furthermore, Claimant sought \$35,000.00 in punitive damages against Guidici Pietro and State Street.

OTHER ISSUES CONSIDERED & DECIDED

On July 22, 1998, David H. Zimmer, Esq., counsel for Claimant, sent a letter by facsimile to Todd Y. Saltzman, Esq., which was to serve as a Joint Motion of Claimant and Guidici Pietro to expunge Guidici Pietro's record of Claimant's allegations. The facsimile further recited that the matter had been dismissed with prejudice with regard to Guidici Pietro.

STIPULATED AWARD

Pursuant to the attached Stipulation to Dismiss and Expunge, reached by and among the parties, attached as Exhibit A, and made a part hereof by reference, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. That Claimant's withdrawal of his claims with prejudice is accepted by the arbitrators; and
2. That all reference to this arbitration proceeding shall be expunged from the Central Registration Depository of the National Association of Securities Dealers, Inc. for the record of Respondent Rocco Guidici Pietro.

FORUM FEES

Pursuant to Rule 10332(c) of the Code, NASD Regulation, Inc. Office of Dispute Resolution shall retain the non-refundable filing fee in the amount of \$120 and shall retain the hearing session deposit in the amount of \$400 previously deposited by the Claimant.

Pursuant to Rule 10333 of the Code, NASD Regulation, Inc. shall retain the \$200 member surcharge previously paid by Respondent State Street. Pursuant to Rule 10319 of the Code, Claimant shall pay to NASD Regulation, Inc. the \$400 past due postponement fee previously invoiced.

Fees are payable to NASD Regulation, Inc. Office of Dispute Resolution.

Concurring Arbitrators' Signatures:

\s\ Barry Goldman
Barry Goldman, Esq.
Chairman
Public Arbitrator

November 2, 1998
Dated:

Leonard R. Present
Panelist
Public Arbitrator

Dated:

\s\ Nancy R. Papo
Nancy R. Papo
Panelist
Industry Arbitrator

November 3, 1998
Dated:

For NASD Regulation use only:
Date Stipulated Award served on parties:

November 19, 1998

NASD Regulation, Inc. Office of Dispute Regulation

In the matter of the Arbitration Between

Name of Claimant

Alex Maul

96-05808

Name of Respondent

**Rocco Guidici Pietro
State Street Capital Markets**

Supplementary Award

On or before the scheduled hearing date, Claimant Alex Maul, of his own action and without recourse, withdrew his claim and allegations against Respondent Rocco Guidici Pietro. In addition, prior to the scheduled hearing date counsel for both Claimant and Respondent agreed that the case against Respondent was to be expunged.

A motion was made and signed by both parties but for some reason the case was closed without said Motion to Expunge being acted upon. After contact was made with the NASD, the parties agreed to submit this Supplementary Award for attachment to said matter wherein:

THE MATTER against Respondent Rocco Guidici Pietro was dismissed with prejudice and the Motion to Expunge was granted thus expunging from Rocco Guidici Pietro's CRD record any notice of the above-referenced matter.



Attorney for Claimant



Attorney for Respondent



Arbitrator

Arbitrator

Arbitrator