

Award
NASD Regulation, Inc.

In the Matter of the Arbitration Between:

Peter Maksymuk, III and Siglinde Maksymuk, ("Claimants") vs. Pacific Brokerage Services, Inc., ("Respondent")

Case Number: 97-02440

Hearing Site: New York, NY

REPRESENTATION OF PARTIES

Claimants, Peter Maksymuk, III and Siglinde Maksymuk, hereinafter collectively referred to as "Claimants": Christine Cole, Esq., Slater & Cole, LLP, New York, NY.

Respondent, Pacific Brokerage Services, Inc., hereinafter referred to as "Respondent": Stephen B. Bedell, Esq., Gardner, Carton & Douglas, Chicago, IL.

CASE INFORMATION

Statement of Claim filed on or about: May 13, 1997

Amended Statement of Claim filed on or about: October 5, 1998

Peter Maksymuk, III signed the Uniform Submission Agreement: April 28, 1997

Siglinde Maksymuk signed the Uniform Submission Agreement: June 6, 1997

Statement of Answer filed by Respondent on or about: August 18, 1997

Respondent signed the Uniform Submission Agreement: August 18, 1997

CASE SUMMARY

Claimants asserted the following causes of action: negligence, misrepresentations, and errors in their account.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses: Respondent complied with all applicable rules and regulations regarding Claimants' account.

RELIEF REQUESTED

Claimants requested entry of an award against Respondent in the sum of \$100,000.00, plus interest, costs, fees and disbursements of this proceeding, including reasonable attorneys' fees. In addition, Claimants requested punitive damages against Respondent Frankel.

Respondent requested an award dismissing Claimants' claims and judgment entered in its favor.

OTHER ISSUES CONSIDERED AND 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 their Amended Statement of Claim, Claimants named the National Association of Securities Dealers, Inc. ("NASD"), The NASDAQ Stock Market, Inc. ("Nasdaq"), Titan International, Inc. f/k/a LaPointe Industries, Inc., and William V. Frankel & Co., Inc. as Respondents in this matter. By letter dated February 1, 1999, NASD and Nasdaq declined to submit to the jurisdiction of NASD Regulation, Inc. and did not consent to participate in this arbitration. By letter dated September 9, 1999, Claimants decided to proceed on the Amended Statement of Claim without joining the additional parties.

Arbitrator, John Ball, Esq., sitting as a public arbitrator, did not attend the hearing conducted on December 8, 1999. The parties agreed to proceed with the hearing with the remaining two arbitrators, Roger J. Hawke, Esq. and Robina Fedora Asti.

At the time Roger C. Hawke, Esq. was appointed to the Panel in this matter he was classified as a public arbitrator but, he was subsequently reclassified as an industry arbitrator. By letter dated December 21, 1999, the parties were notified of this change in classification. The parties agreed to the issuance of this Award.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent be and hereby is liable for and shall to pay Claimants compensatory damages in the amount of \$29,216.00.
2. Respondent be an hereby is liable for and shall pay to Claimants interest in the amount of \$7,888.00.
3. Respondent be and hereby is liable for and shall pay to Claimants the sum of \$400.00 as reimbursement for the hearing session deposit previously paid by Claimants to NASD Regulation, Inc.
4. All other requests for relief are hereby denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Regulation, Inc. will retain or collect the non-refundable filing fees for each claim:
Initial claim filing fee = \$ 150.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person(s) at the time of the event giving rise to the dispute. In this matter, Pacific Brokerage Services, Inc. is a party.

Member surcharge = \$ 200.00

Forum Fees and Assessments

The Panel assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with Panel x \$400.00 = \$ 400.00
Pre-hearing conference: February 3, 1998 1 session

Two (2) Hearing sessions x \$500.00 = \$1,000.00
Hearing Date: December 8, 1999 2 sessions

Total Forum Fees = \$1,400.00

1. The Panel has assessed all of the forum fees against the Respondent.

Fee Summary

1. Claimants be and hereby is solely liable for:

<u>Initial Filing Fee</u>	= \$ 120.00
Administrative Costs	= \$ 30.00
Total Fees	= \$ 150.00
<u>Less payments</u>	= \$ 650.00
Refund due the Claimants	= \$ 500.00

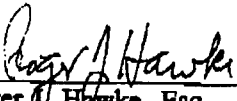
2. Respondent be and hereby is solely liable for:

Member Fees	= \$ 200.00
<u>Forum Fees</u>	= \$1,400.00
Total Fees	= \$1,600.00
<u>Less payments</u>	= \$ 200.00
Balance Due NASD Regulation, Inc.	= \$1,400.00

All balances are due and payable to NASD Regulation, Inc.

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, 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.



Roger J. Hawke, Esq.
Industry Arbitrator, Presiding Chair

Signature Date

Robina Fedora Asti
Industry Arbitrator

Signature Date


February 23, 2000
Date of Service (For NASD office use only)

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, 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.

Roger J. Hawke, Esq.
Industry Arbitrator, Presiding Chair

Signature Date



Robina Fedora Asti
Industry Arbitrator

Signature Date

February 23, 2000
Date of Service (For NASD office use only)