

NASD REGULATION, INC.
AWARD

In the Matter of the Arbitration Between

Name of Claimant

Donald J. Tipper

97-06054

Names of Respondents

J.W. Barclay & Co., Inc.
Dexter Cube

REPRESENTATION

For Claimant Donald J. Tipper ("Claimant") appeared Brian Guillorn, Esq. of the Law Offices of Kathy H. Rocklen, P.C., located in New York, New York.

For Respondents J.W. Barclay & Co., Inc. ("Barclay & Co.") and Dexter Cube ("Cube") (referred to collectively as "Respondents") appeared David Robbins, Esq. of the law firm of Kaufmann, Feiner, Yamin, Gildin & Robbins, LLP.

CASE INFORMATION

Claimant's Statement of Claim was filed on December 30, 1997.
Claimant's Submission Agreement was signed on December 30, 1997.

Respondent Barclay & Co.'s Statement of Answer was filed on March 11, 1998.
Respondent Barclay & Co.'s Submission Agreement was signed on March 16, 1998.

Respondent Cube's Statement of Answer was filed on March 11, 1998.
Respondent Cube's Submission Agreement was signed on March 16, 1998.

HEARING INFORMATION

Pre-Hearing Conferences:	September 23, 1998	-	1 session
	December 31, 1998	-	1 session
Hearing Dates/Sessions:	March 29, 1999	-	2 sessions
	March 30, 1999	-	2 sessions
	April 13, 1999	-	2 sessions

The hearings were conducted at the offices of NASD Regulation, Inc. located in New York,

New York.

CASE SUMMARY

Claimant alleged that he opened an IRA account with Barclay & Co., and that Cube was the Barclay & Co. account executive with whom he transacted business. Claimant alleged that he intended for the account to provide retirement income. Claimant further alleged that he informed Respondents that his primary investment goal was preservation of capital and growth. Claimant asserted that, on or about January 5, 1995, the assets in his account totalled approximately \$133,800.00. Claimant maintained that, at the time the account was closed on or about September 16, 1997, the market value of his account's assets was approximately \$47,555.00. Claimant alleged that Cube made inappropriate, unsuitable investment recommendations for his IRA account, resulting in substantial losses. Claimant also alleged that Cube churned his IRA account by recommending excessive purchases and sales. Claimant further alleged that Barclay & Co. knew, or should have known, about Cube's unsuitable recommendations and had an affirmative duty to supervise Cube and verify that he was making appropriate recommendations to him. In addition, Claimant maintained that Barclay & Co. charged an excessive mark-up on the securities for which it was a market maker.

Respondents denied all allegations of supervisory deficiencies, misrepresentation, and churning. Respondents maintained that Claimant's allegations represent Claimant's attempt to extricate himself from losses sustained in his account on transactions that were authorized and executed in good faith. Respondents further maintained that the losses incurred were beyond Respondents' control and occurred as a result of the fluctuations which are inherent with common stock investments. Respondents also maintained that Claimant's primary goal in establishing the account was not to provide retirement income but, as stated on Claimant's new account form, his investment objectives were growth/income and speculation.

RELIEF REQUESTED

Claimant requested compensatory damages of \$110,000.00 plus costs, disbursements, and reasonable attorneys' fees incurred in bringing this action, together with punitive damages in an amount to be determined by the arbitration panel.

Respondents requested dismissal of all claims and allegations made against them in their entirety, as well as an award of attorneys' fees and forum fees incurred in defense of this arbitration matter.

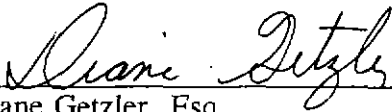
OTHER ISSUES CONSIDERED & DECIDED

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.

ARBITRATION PANEL

Diane Getzler, Esq. - Public Chairperson
Karl Bosch - Public Arbitrator
Thomas Levis - Industry Arbitrator

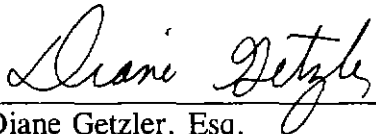
CONCURRING ARBITRATOR'S SIGNATURE



Diane Getzler, Esq.
Chairperson-Public Arbitrator

Date of decision: May 24, 1999

I, Diane Getzler, Esq., 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.



Diane Getzler, Esq.

ARBITRATION PANEL

Diane Getzler, Esq. - Public Chairperson
Karl Bosch - Public Arbitrator
Thomas Levis - Industry Arbitrator

CONCURRING ARBITRATOR'S SIGNATURE

/s/
Karl Bosch
Public Arbitrator

Date of decision: May 24, 1999

I, Karl Bosch, 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.


Karl Bosch

ARBITRATION PANEL

Diane Getzler, Esq. - Public Chairperson
Karl Bosch - Public Arbitrator
Thomas Levis - Industry Arbitrator

CONCURRING ARBITRATOR'S SIGNATURE

A handwritten signature in cursive script that reads "Thomas Levis". The signature is written in dark ink and is positioned above a horizontal line.

Thomas Levis
Industry Arbitrator

Date of decision: May 24, 1999

I, **Thomas Levis**, 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.

A handwritten signature in cursive script that reads "Thomas Levis". The signature is written in dark ink and is positioned above a horizontal line.

Thomas Levis

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. Respondents be and hereby are jointly and severally liable for compensatory damages in the amount of \$40,000.00, plus pre-judgment interest calculated at the legal rate in New York, accruing per annum from September 18, 1997 until the date of payment.
2. Respondents be and hereby are jointly and severally liable for all forum fees associated with this arbitration, as set forth more fully in the "Forum Fees" section, below.
3. All other requests for relief are hereby denied.

OTHER COSTS

Pursuant to Rule 10333 of the NASD Code of Arbitration Procedure ("Code"), Barclay & Co. shall pay to NASD Regulation, Inc. the \$1,500.00 past due member surcharge previously invoiced.

FORUM FEES

Pursuant to Rule 10332(c) of the Code, the arbitrators have determined that NASD Regulation, Inc. will retain the \$200.00 non-refundable filing fee paid by Claimant and have assessed the following forum fees:

2 Pre-hearing Conferences (with full panel)	x	\$750.00	=	\$1,500.00
6 Hearing Sessions	x	\$750.00	=	\$4,500.00

Respondents be and hereby are jointly and severally liable for the sum of \$6,000.00, representing the total amount of forum fees assessed.

Fees are payable to NASD Regulation, Inc.