

AWARD

NASD Regulation, Inc.

In the Matter of the Arbitration Between

Name of Claimant

Bradley Franzen

and

98-00105

Name of Respondent

Investors Associates, Inc.
Joseph J. Mandaro

REPRESENTATION OF PARTIES

Bradley Franzen ("Claimant") was represented by Bradley J. Schmidt, Esq., Schmidt, Thompson, Johnson & Moody, Wilmar, Minnesota.

Investors Associates, Inc. ("Respondent Investors") did not appear at the hearing.

Joseph J. Mandaro ("Respondent Mandaro") was represented by Robert Bertsch, Esq., Port, Washington, New York. Respondent Mandaro did not appear at the hearing of this matter.

CASE INFORMATION

The Statement of Claim was filed on or about January 9, 1998. Submission Agreement of Claimant Bradley Franzen was signed on January 7, 1998.

Respondent Investors Associates, Inc. did not file responsive pleadings.

Statement of Answer was filed by Respondent Joseph J. Mandaro on or about April 23, 1998.

HEARING INFORMATION

The hearing was held on December 1, 1998 in Minneapolis, Minnesota for one (1) session.

CASE SUMMARY

Claimant alleged that Respondent Mandaro, as an agent of Respondent Investors contacted him offering advice on certain stock investments and offering services as a broker in purchasing the stocks for him. It was alleged that Claimant initially agreed to purchase certain stock investments through

Mandaro and Investors. Claimant alleged that a number of purchases and sales of stocks were made by Mandaro in Claimant's name, but without his authorization. It was also alleged that Respondent Mandaro ignored Claimant's instructions for stock purchases or sales. Claimant alleged that he decided to liquidate his account but accomplished this only after numerous communications to Mandaro and Investors and after hiring an attorney. It was alleged that the conduct of Respondents Mandaro and Investors constitutes violations of various common law and statutory securities laws, including Minnesota and Federal law.

Respondent Mandaro denied the allegations set forth in the Statement of Claim. Respondent Mandaro specifically stated that Claimant carefully monitored his account and spoke frequently with the Account Executive handling his account. Respondent also stated that each and every transaction in Claimant's account was authorized and executed in a timely fashion after receipt of instructions from Claimant. It was further stated that there were no guarantees of profit or price increases made to Claimant by Respondent Mandaro.

RELIEF REQUESTED

Claimant requested an award as follows:

1. Damages for investment losses in the amount of \$23,319.19.
2. Interest as allowed by law.
3. All of Claimant's costs, disbursements and attorneys' fees as allowed by law.
4. Punitive damages in the amount of \$75,000.00.
5. Such other relief as is determined to be equitable and just.

Respondent Mandaro requested that the panel dismiss the Statement of Claim, together with such other and further relief deemed appropriate.

OTHER ISSUES CONSIDERED & DECIDED

Upon review of the file and the representations made by/on behalf of the Claimant, the undersigned arbitrators have determined that Respondents Investors Associates, Inc. and Joseph J. Mandaro have been properly served with the Statement of Claim pursuant to Rule 10302 and Rule 10314 of the NASD Code of Arbitration Procedure (the "Code"). The undersigned arbitrators have also determined that Respondents Investors Associates, Inc. and Joseph J. Mandaro had received due notice of the hearing as required under Rule 10315 of the Code and that arbitration of the matter would proceed pursuant to Rule 10318 of the Code.

Respondent Mandaro did not file with the NASD Regulation, Inc. Office of Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to Rule 10301 of the NASD Code of Arbitration Procedure (the "Code") and having answered the claim is bound by the determination of the arbitration panel on all issues submitted.

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 original(s) remain on file with the NASD Regulation, Inc. Office of Dispute Resolution (the "NASD").

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 Investors Associates, Inc. and Joseph J. Mandaro shall be and hereby are jointly and severally liable for and shall pay to the Claimant Bradley Franzen the sum of \$23,319.19 (**Twenty Three Thousand Three Hundred Nineteen Dollars and Nineteen Cents**).
2. Respondents Investors Associates, Inc. and Joseph J. Mandaro shall be and hereby are jointly and severally liable for and shall pay to the Claimant Bradley Franzen reasonable attorneys' fees pursuant to an affidavit of fees to be submitted to them by Claimant's counsel. In no event is this award of attorneys fees to exceed the sum of \$5,000.00.
3. No punitive damages are awarded herein.
4. Each party shall bear its own costs, expenses and fees, including but not limited to attorneys' fees, incurred in this matter not specifically enumerated herein.


FORUM FEES

Forum fees are calculated at the rate of \$500.00 per hearing session and \$300.00 for each pre-hearing conference, if any. There was one (1) session x \$500.00 = \$500.00 in forum fees. Pursuant to Rule 10332(b) of the NASD Code of Arbitration Procedure (the "Code"), a hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less.

Pursuant to Rule 10332(c) of the Code, the NASD shall retain the non-refundable filing fee in the amount of \$150.00 and shall retain as forum fees \$250.00 of the hearing session deposit in the amount of \$500.00 previously deposited with the NASD by the Claimant Bradley Franzen. Respondents Investors Associates, Inc. and Joseph J. Mandaro shall be and hereby are jointly and

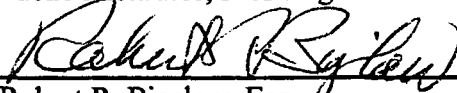
severally liable for and shall pay to the NASD the sum of \$250.00 as the balance due for forum fees.
Fees are payable to the NASD Regulation, Inc. Office of Dispute Resolution.

Dated:



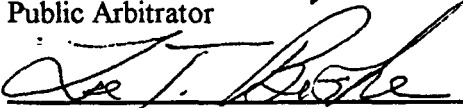
Phyllis Karasov, Esq.
Public Arbitrator, Presiding Chair

12-1-98



Robert R. Bigelow, Esq.
Public Arbitrator

12-1-98



Lee T. Beske
Industry Arbitrator

12-1-98