

Award
NASD Regulation, Inc.

In the Matter of the Arbitration Between

Name of Claimants

Facchina Construction Co., Inc.
Verga, Waugh & Associates
Charles W. McPherson
Paul V. Facchina, Sr.

Case No. 98-00214

Name of Respondents

I.A. Rabinowitz & Co. (n/k/a I.A.R. Securities, Inc.)
Richard Gothers

REPRESENTATION OF PARTIES

Claimants Paul V. Facchina, Sr. ("Facchina"), Facchina Construction Co., Inc. ("Facchina Co."), Verga, Waugh & Associates ("Verga"), and Charles W. McPherson ("McPherson") were represented by Neal Brickman, Esq. of the Law Offices of Neal Brickman, New York, New York.

Respondents I.A. Rabinowitz & Co., now known as I.A.R. Securities, Inc. ("I.A.R."), and Richard Gothers ("Gothers") were represented by Ruthann G. Niosi, Esq. of the Law Offices of Ruthann G. Niosi, Esq., New York, New York.

CASE INFORMATION

Joint Statement of Claim filed by Facchina, Facchina Co., Verga, and McPherson (hereinafter "Claimants") on January 16, 1998.

Facchina's Uniform Submission Agreement was executed on January 9, 1998.

Facchina Co.'s Uniform Submission Agreement was executed by Paul V. Facchina, Sr., President of Facchina Construction Co., Inc., on January 9, 1998.

Verga's Uniform Submission Agreement was executed by Greg Verga, Partner of Verga, Waugh & Associates on January 9, 1998.

McPherson's Uniform Submission Agreement was executed on January 9, 1998.

Joint Statement of Answer filed by Gothers and I.A.R. (hereinafter "Respondents") on April 23, 1998.

Gothers' Uniform Submission Agreement was executed on April 22, 1998.

I.A.R.'s Uniform Submission Agreement was executed by Edward Sita, Director of Compliance on April 23, 1998.

CASE SUMMARY

Claimants asserted, among other things, the following causes of action: unauthorized trades by Respondents in the Facchina and Facchina Co. accounts regarding Curtis Mathes stock, fraudulent misrepresentation by Respondents, securities misconduct by Respondents and that I.A.R. supervised Gothers and was at all times responsible for his actions. Certain of the Claimants' causes of action are based on two sets of transactions involving Gothers and I.A.R. and Curtis Mathes stock (Facchina's and Facchina Co.'s respective sales thereof) and all Claimants present causes of action concerning their respective Celebrity stock transactions.

Unless specifically admitted in its Answer, Gothers and I.A.R. denied the allegations made in the Statement of Claim and asserted the following defenses: Claimants are denying responsibility for their own actions, Gothers was acting on Facchina's instructions when he sold the Curtis Mathes stock, Gothers did not make any misrepresentations nor did he induce Claimants to purchase Celebrity stock, confirmation slips clearly showed the Celebrity trades as "solicited," Respondents made adequate information available to Claimants upon which Claimants could make decisions to purchase Celebrity stock, Claimants waived objections to the Curtis Mathes and Celebrity trades by not timely objecting and, Claimants failed to mitigate their purported damages from the Curtis Mathes and Celebrity trades.

RELIEF REQUESTED

Claimants requested:

Compensatory Damages to Facchina	\$ 68,101.25
Compensatory Damages to Facchina Co.	\$ 143,520.00
Compensatory Damages to McPherson	\$ 10,751.25
Compensatory Damages to Verga	\$ 2,595.00

Claimants also requested punitive damages, interest, attorneys' fees, other costs and any other monetary/non-monetary relief, if any, as the Panel deems just and proper.

Respondents requested: all claims asserted in the Statement of Claim be dismissed; that Respondents be awarded their costs and expenses of the arbitration including reasonable attorneys' fees; and, such other and further relief as deemed just and proper.

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. That I.A.R. and Gothers are jointly and severally liable and shall pay to Paul V.

Facchina, Sr. the sum of \$34,020, plus interest at the rate of 6% simple interest per annum from May 13, 1996 until the date the award is paid. This portion of the award concerns the unauthorized Curtis Mathes transactions;

2. That I.A.R. and Gothers are jointly and severally liable and shall pay to Facchina Construction Co., Inc. the sum of \$82,520, plus interest at the rate of 6% simple interest per annum from May 13, 1996 until the date the award is paid. This portion of the award concerns the unauthorized Curtis Mathes transactions;

3. That I.A.R. and Gothers are jointly and severally liable and shall pay to Paul V. Facchina, Sr., the sums as follows, broken down by amount and date that simple interest at the rate of 6% per annum shall accrue until the date the award is paid: \$12,020 with interest from July 25, 1996; \$5,270 with interest from July 26, 1996; and, \$4,395 with interest from February 3, 1997. This portion of the award concerns the fraudulent Celebrity transactions;

4. That I.A.R. and Gothers are jointly and severally liable and shall pay to Charles W. McPherson, the sums as follows, broken down by amount and date that simple interest at the rate of 6% per annum shall accrue until the date the award is paid: \$2,111.25 with interest from July 31, 1996; \$2,051.25 with interest from August 19, 1996; \$1,632.50 with interest from September 13, 1996; \$1,173.75 with interest from October 3, 1996; \$2,270.00 with interest from December 6, 1996; \$1,895.00 with interest from January 31, 1997; and, \$1,270.00 with interest from February 3, 1997. This portion of the award concerns the fraudulent Celebrity transactions;

5. That I.A.R. and Gothers are jointly and severally liable and shall pay to Verga, Waugh & Associates, the sums as follows, broken down by amount and date that simple interest at the rate of 6% per annum shall accrue until the date the award is paid: \$1,611.25 with interest from November 15, 1996; and, \$1,020.00 with interest from February 3, 1997. This portion of the award concerns fraudulent Celebrity transactions;

6. That I.A.R. and Gothers are jointly and severally liable and shall pay to the Facchina Construction Co., Inc. the sum of \$2,120.00, plus interest at the rate of 6% simple interest per annum from July 26, 1996 until the date the award is paid. This portion of the award concerns fraudulent Celebrity transactions;

7. That punitive damages are denied;

8. That forum fees and other costs are specifically addressed below;

9. That the parties shall bear their own attorneys' fees; and

10. That any and all claims not specifically addressed are denied in their entirety.

FEES

Pursuant to the Code of Arbitration Procedure, the following fees are assessed:

Filing Fees

NASD Regulation, Inc. will retain Claimant's non-refundable filing fee for the claim:

Initial claim filing fee = \$ 200.00

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 at the time of the events giving rise to the dispute. In this matter, the member firm is I.A.R., the Respondent's former firm.

Member surcharge = \$ 1,500.00

Adjournment Fees

Adjournments requested during these proceedings: 1

Hearing Date, March 3, 1999, adjournment by Respondents = \$ 750.00

The Panel has assessed \$750.00 of adjournment fees jointly and severally to Respondents
I.A.R. and Gothers.

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:

1 Pre-hearing session with Panel x \$ 750.00 = \$ 750.00

Pre-hearing conferences: September 18, 1998 1 session

7 Hearing sessions x \$ 750.00 = \$5,250.00

Hearing Dates: September 28, 1999 2 sessions

September 29, 1999 2 sessions

September 30, 1999 3 sessions

Total Forum Fees = \$6,000.00

The Panel has assessed forum fees in the amount of \$6,000.00, jointly and severally, to
Respondents I.A.R. and Gothers.

Fee Summary

Claimants, be and hereby are solely liable for:

Initial Filing Fee = \$ 200.00

Total Fees = \$ 200.00

Less payments = \$ 1,250.00

Balance Due NASD Regulation, Inc. = \$ (950.00)

NASD Regulation shall refund to Claimants = \$ 1,050.00

Respondent I.A.R., be and hereby is solely liable for:

Member Fees	= \$1,500.00
Pre-hearing processing fee	= \$ 600.00
Hearing processing fee	= \$2,500.00
Adjournment fee	= \$ 750.00
Total Fees	= \$5,350.00
<u>Less payments</u>	<u>= \$ 5,350.00</u>
Balance Due NASD Regulation, Inc.	= \$ -0-

Respondents, I.A.R. and Gothers be and hereby are jointly and severally liable for:

Forum Fees	= \$6,000.00
Total Fees	= \$6,000.00
<u>Less Payments</u>	<u>= \$0.00</u>
Balance Due NASD Regulation, Inc.	= \$6,000.00

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

DATE AWARD SIGNED:

Concurring Arbitrators' Signatures

11/06/99

Kitty G. Grubb Chairperson
Kitty G. Grubb, Esq. - Chairperson
Public Arbitrator

Alan S. Carmel, Esq. - Panelist
Public Arbitrator

Ida W. Drait, Esq. - Panelist
Industry Arbitrator

November 9, 1999

Date Award Served by NASD Regulation, Inc.

Respondent I.A.R., be and hereby is solely liable for:

Member Fees	= \$1,500.00
Pre-hearing processing fee	= \$ 600.00
Hearing processing fee	= \$2,500.00
Adjournment fee	= \$ 750.00
Total Fees	= \$5,350.00
<u>Less payments</u>	<u>= \$ 5,350.00</u>
Balance Due NASD Regulation, Inc.	= \$ -0-

Respondents, I.A.R. and Gothers be and hereby are jointly and severally liable for:

Forum Fees	= \$6,000.00
Total Fees	= \$6,000.00
<u>Less Payments</u>	<u>= \$0.00</u>
Balance Due NASD Regulation, Inc.	= \$6,000.00

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

DATE AWARD SIGNED:

Concurring Arbitrators' Signatures

Kitty G. Grubb, Esq. - Chairperson
Public Arbitrator

Alan S. Carmel, Esq. - Panelist
Public Arbitrator

Ida W. Drait, Esq. - Panelist
Industry Arbitrator

November 9, 1999

Date Award Served by NASD Regulation, Inc.

Respondent I.A.R., be and hereby is solely liable for:

Member Fees	= \$1,500.00
Pre-hearing processing fee	= \$ 600.00
Hearing processing fee	= \$2,500.00
Adjournment fee	= \$ 750.00
Total Fees	= \$5,350.00
<u>Less payments</u>	<u>= \$ 5,350.00</u>
Balance Due NASD Regulation, Inc.	= \$ -0-

Respondents, I.A.R. and Gothers be and hereby are jointly and severally liable for:

Forum Fees	= \$6,000.00
Total Fees	= \$6,000.00
<u>Less Payments</u>	<u>= \$0.00</u>
Balance Due NASD Regulation, Inc.	= \$6,000.00

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

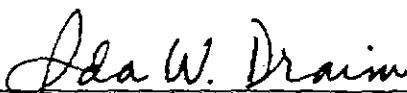
DATE AWARD SIGNED:

Concurring Arbitrators' Signatures

Kitty G. Grubb, Esq. - Chairperson
Public Arbitrator

Alan S. Carmel, Esq. - Panelist
Public Arbitrator

11-8-99


Ida W. Draim, Esq. - Panelist
Industry Arbitrator

November 9, 1999

Date Award Served by NASD Regulation, Inc.