

NASD REGULATION, INC.
AWARD

In the Matter of the Arbitration Between

Name of Claimants

Paul R. Gallo and Mary M. Gallo

vs.

Case No.
98-00299

Name of Respondents

Sterling Foster & Co., Inc.
James Walsh

REPRESENTATION

Claimants Paul R. and Mary M. Gallo ("Claimants") appeared pro se.

Respondent Sterling Foster & Co., Inc. ("Sterling Foster") did not enter an appearance in this matter.

For Respondent James Walsh ("Walsh") David A. Gehn, Esq. of the law offices of Bachner & Gehn located in New York, New York submitted a Statement of Answer. Thereafter, Mr. Gehn withdrew his representation of Walsh and Walsh did not participate in this matter.

CASE INFORMATION

Claimants' Statement of Claim was filed on January 20, 1998.
Claimants' Submission Agreement was signed on January 19, 1998.

Sterling Foster did not file a Statement of Answer or a properly executed Submission Agreement.

Walsh's Statement of Answer was filed on May 29, 1998.
Walsh did not file a properly executed Submission Agreement.

HEARING INFORMATION

Pre-Hearing Conference:	August 7, 1998	-	1 session
Hearing Date/Session:	November 19, 1998	-	1 session

The hearing was conducted at the offices of NASD Regulation, Inc. located in Boston, Massachusetts.

CASE SUMMARY

Claimants alleged that, in August of 1996, Walsh, a broker at Sterling Foster, contacted them and promoted shares of M.L. Direct, Inc. ("ML"), an Initial Public Offering ("IPO"). Claimants contended that they informed Walsh that they had never purchased an IPO before and requested more financial information about the company. Claimants maintained that Walsh stated that ML was financially strong and that the ML shares would increase at least \$10 to \$12 per share within three months of the IPO. In addition, Claimant maintained that, prior to the transaction, they did not receive a prospectus or any financial information for ML. Claimants alleged that, on August 14, 1996, Walsh contacted them and stated that ML would be offered on the following day for about \$12 to \$16 per share but, he was uncertain about the exact share price. Claimants maintained that, at that time, they authorized Walsh to buy no more than \$10,000 worth of ML shares on, and only on, August 15, 1996. Claimants contended that they did not hear from Walsh or Sterling Foster until September 6, 1996 when they received notice that on September 4, 1996 they had purchased \$14,262 worth of ML shares.

Claimants alleged that, after receiving the notice, they contacted Gallo who explained that some problems occurred on August 15, 1996 which postponed the sale. Claimants also alleged that, when they informed Walsh that they had not authorized the trade, Walsh responded that they were obligated to pay the \$14,262 and advised them that Sterling Foster could sell any other shares in their account to pay for the ML transaction. Claimants maintained that, although they made several phone calls to Sterling Foster demanding the rescission of the trade, the calls went unanswered. Claimants contended that, after the transaction, they received a copy of the ML prospectus and that neither Walsh nor Sterling Foster ever communicated to them any of the financial information or risk factors contained in the prospectus.

Walsh maintained that, on September 4, 1996, the ML IPO became effective and that, on that day, Claimants purchased 1,000 shares of ML at \$14.25 per share for a total cost of \$14,262. Walsh also maintained that Claimants were forwarded a trade confirmation memorializing the purchase and that, on or about September 10, 1996, Claimants deposited the full amount of the ML purchase price into their account. Walsh contended that, for a period of approximately six weeks, Claimants did not complain to Sterling Foster that the ML purchase was unauthorized, submit a sell order, or manifest any behavior demonstrating or indicating that their ML purchase was unauthorized. Walsh contended that, on October 21, 1996, after the ML price declined in value, Claimants wrote their first of several letters attempting to disavow the ML purchase.

RELIEF REQUESTED

Claimants requested damages in the amount of the \$14,262.00 plus interest and costs.

Walsh requested that the Statement of Claim be dismissed in its entirety and that the costs of the arbitration be assessed against Claimants.

OTHER ISSUES CONSIDERED AND DECIDED

The arbitrator made the following determinations concerning Sterling Foster who did not file a Statement of Answer or a Submission Agreement and did not appear at the hearing in this matter and, as to Walsh who did not file a Submission Agreement and who did not appear at the hearing in this matter:

1. Pursuant to Rule 10101 of the Code of Arbitration Procedure (the "Code"), the arbitrator found subject matter jurisdiction over this entire controversy.
2. The arbitrator found that Sterling Foster was a member of the NASD at the time this controversy arose. Accordingly, the arbitrator found jurisdiction over Sterling Foster pursuant to Rule 10301 of the Code.
3. The arbitrator found that Walsh was a person associated with a member of the NASD at the time this controversy arose. Accordingly, the arbitrator found personal jurisdiction over Walsh pursuant to Rule 10301 of the Code.
4. The arbitrator found that Sterling Foster was required to file a Statement of Answer and Submission Agreement with NASD Regulation, Inc. pursuant to Rule 10314(b) of the Code. In this regard, the arbitrator found that the Statement of Claim was properly served upon Sterling Foster pursuant to Rule 10314 (a) of the Code.
5. The arbitrator found that Walsh was required to file a Submission Agreement with NASD Regulation, Inc. pursuant to Rule 10314(b) of the Code. In this regard, the arbitrator found that the Statement of Claim was properly served upon Walsh pursuant to Rule 10314(a) of the Code.
6. In addition, in accordance with Rules 10310, 10315 and 10318 of the Code, the arbitrator found that NASD Regulation, Inc. provided Sterling Foster and Walsh with "due notice" of the hearings conducted in this matter by regular and certified mail. The arbitrator further determined to proceed with the hearing without Sterling Foster and Walsh whose absences were unexcused.

AWARD

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

1. Sterling Foster and James Walsh be and hereby are jointly and severely liable for and shall pay to Claimants compensatory damages in the amount of **FOURTEEN THOUSAND TWO HUNDRED AND SIXTY-TWO DOLLARS (\$14,262.00)** plus interest at the rate of 12% per annum starting from January 20, 1998, the date Claimants filed their Statement of Claim;
2. Sterling Foster and James Walsh be and hereby are jointly and severely liable for and shall pay to Claimants costs in the sum of \$450.00.

3. All other requests are hereby denied.

FORUM FEES

Pursuant to Rule 10332(c) of the Code, the arbitrators have determined that NASD Regulation, Inc. will retain the \$100.00 non-refundable filing fee submitted by Claimants and have assessed the following forum fees:

1 Pre-hearing Conference	=	\$300.00
1 Hearing Session x \$300.00	=	\$300.00

Sterling Foster and Walsh be and hereby are jointly and severely liable for the sum of \$600.00, representing the total amount of forum fees assessed in this matter.

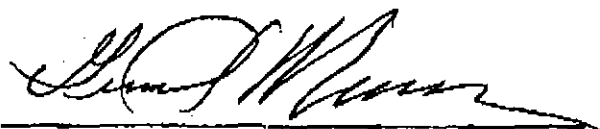
Claimants previously deposited \$300.00 with NASD Regulation, Inc. and, therefore, Sterling Foster and Walsh shall jointly and severally pay the balance of \$300.00 to NASD Regulation, Inc.

ARBITRATION PANEL

Gerald S. Marsan, Esq.

- Public Chairperson

ARBITRATOR'S SIGNATURE



Gerald S. Marsan, Esq.
Chairperson - Public Arbitrator

Date of Decision: January 4, 1999