

**Award**  
**NASD Regulation, Inc.**

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In the Matter of the Arbitration Between:

Abraham Atkin, (Claimant) vs. Sam Wajner, (Respondent)

Case Number: 99-00233

Hearing Site: New York, NY

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**REPRESENTATION OF PARTIES**

Claimant, Abraham Atkin, hereinafter referred to as "Claimant" appeared *pro se*.

Respondent, Sam Wajner, hereinafter referred to as "Respondent": Scott D. Stechman, Esq.,  
Lehman & Eilen, LLP, Uniondale, NY.

**CASE INFORMATION**

Statement of Claim filed on or about: January 19, 1999.

Claimant signed the Uniform Submission Agreement: January 13, 1999.

Response to Motion to Dismiss filed on or about: April 9, 1999.

Statement of Answer filed by Respondent on or about: April 12, 1999.

Respondent signed the Uniform Submission Agreement: March 16, 1999

Motion to Dismiss filed on or about: March 18, 1999.

Reply filed by Respondent on or about: April 13, 1999.

**CASE SUMMARY**

Claimant asserted the following cause of action: unsuitability of investment.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses: Claimant's claims are barred by applicable statutes of limitations; Claimant's claims are barred due to his failure to commence proceeding within the NASD's six year eligibility rule; doctrines of laches, waiver, and estoppel; assumption of risks; and, Claimant authorized and ratified the investment at issue.

### **RELIEF REQUESTED**

Claimant requested entry of an award against Respondent of the sum of \$32,368.00.

Respondent requested an award dismissing the Statement of Claim, with prejudice, together with such other and further relief as the Panel may deem appropriate.

### **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.

Respondent made a Motion to Dismiss under Rule 10304 of the NASD Code of Arbitration Procedure and the applicable statute of limitations which was granted by the Arbitrator.

### **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. The Claimant's claims are hereby dismissed in their entirety.
2. All 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 = \$ 120.00

#### **Forum Fees and Assessments**

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

One (1) Pre-hearing session with a single arbitrator x \$300.00 = \$ 300.00  
Pre-hearing conference: June 29, 1999 1 session

Two (2) Hearing sessions x \$300.00 = \$ 600.00  
Hearing Date: December 8, 1999 2 sessions

Total Forum Fees = \$ 900.00

The Arbitrator has assessed the entire amount of the forum fees against the Claimant.

**Fee Summary**

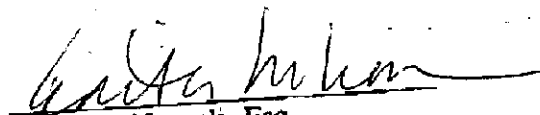
Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$ 120.00
Forum Fees	= \$ 900.00
Total Fees	= \$1,020.00
<u>Less payments</u>	<u>= \$ 420.00</u>
Balance Due NASD Regulation, Inc.	= \$ 600.00

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

Concurring Arbitrator's Signature

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.



Edith M. Novack, Esq.  
Public Arbitrator, Presiding Chair

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Signature Date

December 27, 1999  
Date of Service (For NASD office use only)