

NASD REGULATION, INC.

STIPULATED AWARD

In the Matter of
the Arbitration Between

Name of Claimant

Jeffrey W. Rauff

vs.

NASD # 99-00478

Name of Respondents

Josephthal & Co., Inc.
Robert Tractenberg

REPRESENTATION OF PARTIES

Jeffrey W. Rauff ("Claimant") was represented by Lewis H. Rosenbaum, Esq. of the Law Offices of Lewis H. Rosenbaum New York, New York.

Josephthal & Co., Inc., ("Respondent Josephthal") and ("Respondent Tractenberg") were represented by John Bersin, Associate General Counsel of Respondent Josephthal & Co., Inc., New York, New York.

CASE INFORMATION

The Statement of Claim was filed on or about January 29, 1999. The Submission Agreement of Claimant Rauff was dated January 29, 1999.

The Answer and Affirmative Defenses of Respondent Josephthal & Respondent Tractenberg was filed on April 5, 1999. The Submission Agreements of Josephthal and of Tractenberg were signed on April 5, 2000.

HEARING INFORMATION

A telephone hearing was held on August 9, 1999 for one (1) session. No hearing sessions were held because the parties agreed to the Submission of a Stipulated Award.

CASE SUMMARY

Claimant alleged that Respondents Josephthal and Tractenberg churned the Claimant's brokerage accounts; made unauthorized trades; made unsuitable recommendations of options transactions; and manipulated the markets for one of the Securities, Actrade International, in the account; and engaged in the unsuitable use of a margin account. Claimant further alleged that Respondents Josephthal and Tractenberg made material misrepresentations. Claimant also alleged that Tractenberg's conduct constituted violations of federal and state law, a breach of contract, negligence, and a breach of fiduciary duty.

Respondents Josephthal and Tractenberg asserted that there were never any trades made in Claimant's accounts without the prior express authorization of Claimant. Moreover, Respondents point out that Claimant had been investing for years in highly speculative securities. Respondents assert that the objective for Claimant's accounts was trading, and indeed, that Claimant had signed an options form denoting an objective of trading. All transactions in the Claimant's accounts were consistent with that objective. Respondents asserted that Claimant called frequently. Moreover, Respondents asserted that, far from manipulating the market in Actrade International, Josephthal did not even make a market in such securities, or, when it did make a market, it closed each day with a flat position in its proprietary accounts.

RELIEF REQUESTED

Claimant requested damages of \$102,000, plus interest, attorneys fees, and punitive damages of \$306,000.

Respondents each requested a dismissal of the claims, the assessment of the costs of the proceeding against the Claimant, a recommendation of expungement of this matter from the Respondents CRD reports, and all such further relief as the Arbitration Panel may deem just and necessary.

OTHER ISSUES CONSIDERED AND DECIDED

On February 11, 2000, the parties advised that they had reached a settlement. In particular, the parties agreed to a stipulated Award, a copy of which is annexed hereto and is incorporated herein by reference, whereby the claims against Robert Tractenberg and Josephthal are dismissed with prejudice and the parties agreed to submit a Stipulation to the Panel whereby, the Arbitrators would recommend the expungement of this matter from the CRD record of Robert Tractenberg.

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 NASD Regulation, Inc. Office of Dispute Resolution.

AWARD

After considering the pleadings and the stipulation of the parties, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. All claims Jeffrey Rauff asserted or could have asserted in this arbitration against all Respondents are hereby dismissed with prejudice. It is recommended that this matter be expunged from the Forms U-4 and Forms U-5 of Robert Tractenberg, and from their respective Central Registration Depository records in accordance with the attached Stipulation. By stipulation, this order shall be subject to the jurisdiction of the United States District Court, Southern District of New York.
2. All parties shall bear their own costs and attorney fees.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$200
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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. Accordingly, Josephthal & Co., Inc. is a party.

Member surcharge	= \$1,500
Pre-hearing process fee	= \$ 600
Hearing process fee	= \$2,500

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

November 8 and 9 and December 13 and 14, 1999, adjournment by Josephthal = \$ 750

Forum Fees and Assessments

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

One (1) Pre-hearing session with Panel @ \$750 = \$750
Pre-hearing conference(s): Date 1 session

Total Forum Fees = \$750

1. The Panel has assessed \$375 of the forum fees to Claimant
2. The Panel has assessed \$375 of the forum fees jointly and severally to Josephthal and Tractenberg.

Fee Summary

1. Claimant Jeffrey W. Rauff is assessed the following fees:

Initial Filing Fee	= \$ 200
<u>Forum Fees</u>	<u>= \$ 375</u>
Total Fees	= \$ 575
<u>Less payments</u>	<u>= \$ 950</u>
Refund Due to Claimant	= \$ 375

2. Respondents Josephthal and Tractenberg are jointly and severally assessed:

<u>Forum Fee</u>	<u>= \$375</u>
Balance Due NASD Dispute Resolution	= \$375

3. Josephthal is assessed the following fees:

Member Fees	= \$4,600
<u>Adjournment Fee</u>	<u>= \$ 750</u>
Total Fees	= \$5,350
<u>Less payments</u>	<u>= \$5,350</u>
Balance Due NASD Dispute Resolution	= \$ 0

All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATORS' SIGNATURES

I, **Louis H. Miron**, do hereby affirm that this is my decision in the above-captioned matter.

Louis H. Miron
Concurring Arbitrator

Date of Decision: _____

I, **Roslyn G. Pollack**, do hereby affirm that this is my decision in the above-captioned matter.

Roslyn G. Pollack
Roslyn G. Pollack
Concurring Arbitrator

Date of Decision: 6/19/2002

I, **Sheldon Seligsohn**, do hereby affirm that this is my decision in the above-captioned matter.

Sheldon Seligsohn
Concurring Arbitrator

Date of Decision: _____

Date of Service: July 23, 2002

ARBITRATORS' SIGNATURES

I, **Louis H. Miron**, do hereby affirm that this is my decision in the above-captioned matter.



Louis H. Miron
Concurring Arbitrator

Date of Decision: _____

6-21-02

I, **Roslyn G. Pollack**, do hereby affirm that this is my decision in the above-captioned matter.

Roslyn G. Pollack
Concurring Arbitrator

Date of Decision: _____

I, **Sheldon Seligsohn**, do hereby affirm that this is my decision in the above-captioned matter.

Sheldon Seligsohn
Concurring Arbitrator

Date of Decision: _____

Date of Service: July 23, 2002