

Award
NASD Regulation, Inc.

In the Matter of the Arbitration Between:

Robert Grothaus; Cynthia Grothaus; R.J. Grothaus & Family Inc.; and Robert Grothaus and Cynthia Grothaus JTWS Claimants vs. Trautman, Kramer & Company, Inc., Mark Joseph Gillis, Robert Joseph Kramer, Gregory Owen Trautman, Robert Ware Middleton, and Mark Barbera

Case Number: 99-00490

Hearing Site: Chicago, Illinois

REPRESENTATION OF PARTIES

Claimants Robert Grothaus, Cynthia Grothaus; R.J. Grothaus & Family Inc.; and Robert Grothaus and Cynthia Grothaus JTWS hereinafter collectively referred to as "Claimants": Hayward Pressman, Esq. and Diane Mall Sammarco, Esq., Pressman & Associates, New York City, New York

Respondents Trautman, Kramer & Company, Inc., ("Trautman, Kramer & Company") Mark Joseph Gillis ("Gillis"), Robert Joseph Kramer ("Kramer"), Gregory Owen Trautman ("Trautman"), and Mark Barbera ("Barbera"): Michael Schwartzberg, Esq., Winget, Spadafora & Schwartzberg, LLP, New York City, New York

Respondent Robert Ware Middleton: Peter W. Tomlinson, Patterson, Belknap, Webb & Tyler, LLP, New York City, New York

CASE INFORMATION

Claimants

Statement of Claim filed on or about: February 03, 1999

Claimant, Robert Grothaus, signed the Uniform Submission Agreement: January 28, 1999

Motion to Amend Statement of Claim to Add New Person's and Entities as Claimants filed by Claimants with Stipulation of Agreement between Claimants and all Respondents on or about: December 06, 1999.

Motion to Dismiss Defenses or, in the alternative, compelling the production of the documents and information ordered to be produced by the Chairperson filed by Claimants on or about: December 11, 2000

Response to Respondent Middleton's Motion to Dismiss filed by Claimants on or about: November 01, 1999

Stipulation of Discontinuance with Prejudice of claims against Robert W. Middleton filed by Claimant on or about: January 04, 2001

Respondents

Statement of Answer filed by Respondents Trautman, Kramer & Company, Gillis, Kramer, Trautman, and Barbera on or about: April 20, 1999

Respondent Trautman & Company signed the Uniform Submission Agreement: April 07, 1999

Respondent Gillis signed the Uniform Submission Agreement: April 07, 1999

Respondent Kramer signed the Uniform Submission Agreement: April 07, 1999

Respondent Trautman signed the Uniform Submission Agreement: April 07, 1999

Respondent Barbera signed the Uniform Submission Agreement: April 07, 1999

Response to Claimant's Motion to Dismiss Defenses filed by Respondents Trautman, Kramer & Company, Gillis, Kramer, Trautman, and Barbera on or about: December 18, 2000

Motion to Dismiss for only producing redacted copies of documents requested in discovery filed by Respondents entered during the hearing

Statement of Answer filed by Respondent Middleton on or about: April 23, 1999
Respondent Middleton signed the Uniform Submission Agreement: April 20, 1999

Motion to Dismiss filed by Respondent Middleton on or about: October 15, 1999

CASE SUMMARY

Claimant asserted the following causes of action: Violation of Section 2 of Article III of the National Association of Securities Dealers Rules of Fair Practice, violation of Rule 405 of the New York Stock Exchange for trading unsuitable

securities and engaging in unsuitable transactions, fraud, unauthorized trading, churning, breach of fiduciary duty, and failure to supervise/control person liability.

The causes of action relate to the following known allegedly unsuitable securities purchased on behalf of claimants in this case: Zoom Telephonics, E-Data, Tri-Cord Systems, Compositel, Ltd, IAT Multimedia, Myraid Genetics, Merix Corp., Syquest Technology Inc., Medaphis Corp., and ACT Teleconferencing.

Unless specifically admitted in its Answer, Respondents Trautman, Kramer & Company, Gillis, Trautman, Kramer, and Barbera denied the allegations made in the Statement of Claim and asserted the following defenses: NASD lack of jurisdiction to award punitive damages; failure to state a claim for punitive damages; failure to state a claim for breach of fiduciary duty; failure to state a claim for damages for losses sustained in trading unsuitable securities; failure to state a claim for damages for losses sustained in making fraudulent misrepresentations of fact and risk and omissions; failure to state a claim for losses sustained in making unauthorized trades; failure to state a claim for damages for losses sustained in breach of fiduciary duty; failure to state a claim for damages for losses sustained in failure to supervise; waiver; and estoppel.

Unless specifically admitted in its Answer, Respondents Middleton denied the allegations made in the Statement of Claim and asserted the following defenses: failure to state a claim upon which relief can be granted; no supervisory role; NASD lack of jurisdiction to award punitive damages; assumption of risk; contributory negligence; ratification; estoppel; waiver; laches; market conditions.

RELIEF REQUESTED

Claimant requested:

Compensatory Damages	\$260,000.00
Punitive Damages	unspecified
Interest	unspecified

Respondent Middleton requested:

Attorneys' Fees	unspecified
Other Costs	unspecified
Other Monetary/Non-Monetary Relief if any:	just and proper relief

OTHER ISSUES CONSIDERED AND DECIDED

After considering the submissions the Panel granted Claimants Motion to Amend.

After considering the parties' submissions, the panel denied Claimant's Motion to Dismiss defenses.

After considering the parties' submissions, the panel denied Respondents' Trautman, Kramer & Company, Gillis, Trautman, Kramer and Barbera's Motion to Dismiss.

After considering the parties' submissions, the panel denied Respondent Middleton's Motion to Dismiss.

Claimant voluntarily dismissed with prejudice Respondent Robert Middleton as a named respondent in this arbitration.

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.

AWARD

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

1. The claims against Respondents Mark Gillis, Robert Kramer, Gregory Trautman and Mark Barbera are dismissed with prejudice and denied in their entirety.
2. The panel recommends the expungement of all reference to the above captioned arbitration from Respondent Mark Gillis, Robert J. Kramer, Gregory O. Trautman, Mark Barbera's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondents must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
3. Respondent Trautman, Kramer & Company, Inc. shall be and hereby is solely liable to Claimant Robert Grothaus in the amount of \$24,176.37 as compensatory damages.
4. Respondent Trautman, Kramer & Company, Inc. shall be and hereby is solely liable to Claimant Robert Grothaus in the amount of \$10,000.00 as a sanction for failure to adequately comply with Claimant's discovery requests and the panel Chairperson's order to produce documents and information.
5. Claimant's request for interest and punitive damages is hereby denied.
6. Any and all relief not specifically addressed herein is 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 = \$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 persons at the time of the events giving rise to the dispute. In this matter, the member firm is a party.

Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$2,500.00
Total	= \$4,600.00

Adjournment Fees

Adjournments requested during these proceedings:

March 01, 2000- March 03, 2000 adjournment by Claimant Grothaus= \$ 750.00

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:

One (1) Pre-hearing session with a single arbitrator x \$300.00	= \$ 300.00
Pre-hearing conference: November 17, 2000	1 session

Two (2) Pre-hearing sessions with Panel x \$750.00	= \$1,500.00
Pre-hearing conferences: October 01, 1999	1 session
April 17, 1999	1 session

Nine (9) Hearing sessions x \$750.00	= \$6,750.00
Hearing Dates: January 08, 2001	2 sessions
January 09, 2001	2 sessions
January 10, 2001	2 sessions
January 11, 2001	3 sessions

Total Forum Fees	= \$8,550.00
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1. The Panel has assessed \$8,550.00 of the forum fees to Respondent Trautman, Kramer & Company, Inc.

Fee Summary

1. Claimant Grothaus shall be and hereby is solely liable for:

Initial Filing Fee	= \$ 200.00
Adjournment Fee	= \$ 750.00
Total Fees	= \$ 950.00
Less payments	= \$2,675.00
Refund due from NASD Regulation, Inc.	= \$1,725.00

2. Respondent Trautman, Kramer & Company shall be and hereby is solely liable for:

Member Fees	= \$ 4,600.00
Forum Fees	= \$ 8,550.00
Total Fees	= \$13,150.00
Less payments	= \$ 3,600.00
Balance Due NASD Regulation, Inc.	= \$ 9,550.00

All balances are due to NASD Regulation, Inc.

Concurring Arbitrators' Signatures

/s/ James O'Donnell

03/14/01

James O'Donnell, Esq.
Public Arbitrator, Presiding Chair

Signature Date

/s/ David J. Diersen

03/13/01

David J. Diersen, Esq.
Public Arbitrator

Signature Date

/s/ Paul J. Litteau

03/14/01

Paul J. Litteau
Industry Arbitrator

Signature Date

03/14/01

Date of Service (For NASD office use only)

NASD Dispute Resolution, Inc.
Arbitration No. 99-00490
Award Page 6 of 6

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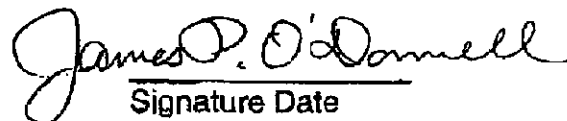
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Public Arbitrator, Presiding Chair



Signature Date

David J. Diersen, Esq.
Public Arbitrator

Signature Date

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James O'Donnell, Esq.
Public Arbitrator, Presiding Chair

Signature Date

David J. Diersen, Esq.
Public Arbitrator

Signature Date


Paul J. Littleau
Industry Arbitrator

March 14 2001
Signature Date

Date of Service (For NASD office use only)