

Award
NASD Regulation, Inc.

In the Matter of the Arbitration Between:

Jimmy N. Walker, Claimant v. Marc Weisman, Nick Solomon and Gruntal & Co., Respondents

Case Number: 99-01268

Hearing Site: San Diego, California

REPRESENTATION OF PARTIES

For Claimant:

Richard L. Finegold, Esq.
Jones, Penfield, Barden, Finegold &
Polakiewicz
San Diego, California

For Respondent Marc Weisman:

Andrew W. Sidman, Esq.
Butler, Fitzgerald & Potter
New York, New York

For Respondents Nick Solomon and Gruntal & Co.:

Peter Vaughan, Esq.
Gruntal & Co.
New York, New York

CASE INFORMATION

Statement of Claim filed: March 10, 1999

Claimant's Uniform Submission Agreement signed: April 7, 1999

Statement of Answer filed by Respondent Marc Weisman: May 18, 1999

Joint Statement of Answer and Motions to Dismiss filed by Respondents Nick Solomon and Gruntal & Co.: June 8, 1999

Motion to Dismiss filed by Respondent Marc Weisman: April 26, 2000

CASE SUMMARY

Claimant alleged excessive trading, churning, unauthorized purchases of securities on margin, unsuitability, misrepresentation, breach of contract, breach of duty, violation of federal and state securities laws, breach of fiduciary duty and violation of NASD rules and regulations.

Respondents denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim and requested dismissal of Claimant's claims pursuant to NASD Code of Arbitration Rule 10304.

RELIEF REQUESTED

Claimant requested \$29,397.50 in compensatory damages and sought interest, costs, and attorney's fees.

Respondents requested dismissal of the Claimant's Statement of Claim in its entirety. Respondents filed Motions to Dismiss pursuant to NASD Code of Arbitration Procedure Rule 10304.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents did not file with the NASD Regulation, Inc. Office of Dispute Resolution properly executed Uniform Submission Agreements to arbitrate. In accordance with membership rules of NASD, Respondents are nonetheless required to submit to this arbitration.

The parties have agreed that a handwritten, signed Award may be entered.

Claimant, by letter of April 9, 1999, withdrew his claim for \$25,000 in punitive damages.

AWARD

After considering the pleadings and the arguments and evidence presented at the pre-hearing conference regarding Respondents' motions to dismiss, the Panel decided in full and final resolution of the issues submitted for determination as follows:

1. All of the Claimant's claims are denied in their entirety pursuant the NASD Code of Arbitration Procedure Rule 10304.
2. The parties shall each bear their respective costs, including attorney's fees.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Regulation, Inc. has received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$120.00
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Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the event of the dispute. Accordingly, the member firm Gruntal & Co. is a party and the following fees are assessed:

Member Surcharge	= \$ 600.00
Pre-Hearing process fee	= \$ 600.00
<u>Hearing process fee</u>	<u>= \$ 1,000.00</u>
Total Member fees	= \$ 2,200.00

Forum Fees and Assessments

The Arbitrator assessed a forum fee for each pre-hearing conference conducted. A pre-hearing conference is any meeting between the parties and the Arbitrator. The following fees are assessed:

(2) Pre-hearing conference sessions with a single arbitrator @ \$ 300.00/Session	= \$ 600.00
Pre-hearing conferences: February 10, 2000	1 Session
June 16, 2000	1 Session

Total Forum Fees	= \$ 600.00
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1. The Arbitrator has assessed \$ 600.00 of the forum fees to Claimant.

Fee Summary

1. Claimant, Jimmy Walker, is charged with the following fees and costs:

Initial Filing Fee	= \$ 120.00
<u>Forum Fees</u>	<u>= \$ 600.00</u>
Total Fees	= \$ 720.00
<u>Less payments (\$500.00 less \$80.00 refunded April 26, 1999)</u>	<u>= \$ (420.00)</u>
Balance Due NASD Regulation, Inc.	= \$ 300.00

2. Respondent, Gruntal & Co., is charged with the following fees and costs:

Member Fees	= \$ 2,200.00
<u>Less payments</u>	<u>= \$ (2,200.00)</u>
Balance Due NASD Regulation, Inc.	= \$ 0

All balances are payable to NASD Regulation, Inc. and are due within 30 days of the award's date of service.

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Arbitrator's Signature

William C. Stewart, Jr.
William C. Stewart, Jr., J.D.
Chair, Public Arbitrator

6/26/2000
Signature Date

June 26, 2000
Date of Service