

HEARING INFORMATION

Pre-Hearing Conference: May 8, 1998 before One arbitrator.

Hearing Dates/Sessions: June 9, 1998 for Two (2) sessions;
June 10, 1998 for Two (2) sessions; and
June 11, 1998 for Two (2) sessions.

Hearing Location: Chicago, Illinois.

CASE SUMMARY

Claimant alleged that Respondent Mahan, while employed by or acting as an agent for Respondent A.S. Goldmen, sold unsuitable investments, such as speculative common stocks and warrants, through the use of misrepresentation and omission of material fact. In addition, Larrabee alleged that Respondents engaged in unauthorized trading, and treated the account as a short term trading account and not as the long term investment account Larrabee requested. Based upon the above allegations, Larrabee asserted claims for violations of the Illinois Securities Law of 1953; fraud; breach of fiduciary duty; negligent misrepresentation and negligence. Furthermore, Larrabee asserted liability against A.S. Goldmen for failure to supervise and respondents superior.

Respondent A.S. Goldmen denied the material allegations of the Statement of Claim, asserting several affirmative defenses, including that:

1. Larrabee waived any claims and is estopped from asserting them because of his failure to notify A.S. Goldmen upon receipt of the confirmations and account statements;
2. Larrabee continued to deal with Goldmen and the failure to complain amounts to ratification;
3. A.S. Goldmen's employees acted in a professional manner and in conformity with applicable rules and regulations of the securities industry;
4. The claims are barred by the applicable statute of limitations or by laches;
5. Larrabee assumed the risks of investing in the market and all risks were disclosed to him;
6. The cause of action is barred by the Statute of Frauds; and
7. Any losses were the result of Claimant's conduct or the normal fluctuations of the market.

In addition, A.S. Goldmen asserted a cross-claim against Mahan, asserting that he is