

**AWARD**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between

Names of Claimants

Gary and Kerensa Gattis

and

Case Number: 03-05158  
Hearing Site: Houston, Texas

Names of Respondents

Goldman, Sachs and Company and  
Bradford V. Weston

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**NATURE OF DISPUTE**

Customers v. Member Firm and Associated Person

**REPRESENTATION OF PARTIES**

Gary and Kerensa Gattis ("**Claimants**") were represented by Sean F. Greenwood, Esq., Heard, Robins, Cloud, Lubel & Greenwood, Houston, Texas.

Goldman, Sachs and Company ("**Goldman Sachs**") and Bradford V. Weston ("**Weston**"), hereinafter referred to as "Respondents," were represented by Charles G. King, Esq., King & Pennington, LLP, Houston, Texas.

**CASE INFORMATION**

The Statement of Claim was filed on or about July 15, 2003. The Submission Agreement of Claimants, Gary and Kerensa Gattis, was signed on or about June 24, 2003.

The Joint Statement of Answer was filed by Respondents, Goldman, Sachs and Company and Bradford V. Weston, on or about September 5, 2003. The Submission Agreement of Respondent, Goldman, Sachs and Company, was signed on or about September 3, 2003. The Submission Agreement of Respondent, Bradford V. Weston, was signed on or about September 3, 2003.

**CASE SUMMARY**

Claimants asserted the following causes of action: breach of fiduciary duty, omission of facts, failure to execute, failure to supervise, negligence, breach of contract and

misrepresentations. The causes of action related to the failure to sell Sapient stock. Claimants alleged that neither Goldman Sachs nor Weston disclosed that Goldman Sachs had an investment banking relationship with Sapient or that Goldman Sachs recommended to its customers to not sell their existing shares in order to enhance its investment banking relationship with Sapient.

Unless specifically admitted in their Answer, Respondents, Goldman Sachs and Weston, denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: Claimants' claims are barred in whole or in part because any losses they sustained were due to their own failures, omissions, conduct or negligence; Claimants failed to state a claim upon which relief can be granted; and Claimants could have mitigated their alleged losses and damages and failed to do so.

#### **RELIEF REQUESTED**

Claimants requested an award in the amount of:

Actual/Compensatory Damages	\$785,754.00
Punitive/Exemplary Damages	Unspecified
Other Costs	Unspecified
Interest	Unspecified
Other Monetary Relief	Unspecified
Attorneys' Fees	Unspecified

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded their costs, attorneys' fees and expungement.

#### **OTHER ISSUES CONSIDERED & 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. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with NASD Dispute Resolution ("NASD").

#### **AWARD**

After considering the pleadings, the testimony, and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

- 1.) Claimants' claims, each and all, are hereby denied and dismissed with prejudice;

- 2.) The panel recommends the expungement of all reference to the above captioned arbitration from Respondent Bradford V. Weston's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent, Bradford V. Weston, must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive;
- 3.) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and
- 4.) Any relief not specifically enumerated, including punitive damages and attorney fees, is hereby denied with prejudice.

### **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 = \$375.00

#### **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 person at the time of the events giving rise to the dispute. In this matter, the member firm is Goldman, Sachs and Company.

Member surcharge	= \$ 2,250.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 4,000.00

#### **Adjournment Fees**

Adjournments granted during these proceedings:

June 22-23, 2004, adjournment by Goldman Sachs = \$ 1,200.00

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

The Arbitration 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 Panel x \$1,200.00	= \$ 1,200.00
Pre-hearing conference: January 20, 2004	1 session
Four (4) Hearing sessions x \$1,200.00	= \$,4,800.00
Hearing Dates: September 28, 2004	2 sessions
September 29, 2004	2 sessions
Total Forum Fees	= \$,6,000.00

The Arbitration Panel has assessed \$3,000.00 of the forum fees jointly and severally to Gary and Kerensa Gattis.

The Arbitration Panel has assessed \$3,000.00 of the forum fees jointly and severally to Goldman, Sachs and Company, and Bradford V. Weston.

#### **FEE SUMMARY**

Claimant, Gary and Kerensa Gattis, are jointly and severally liable for:

Initial Filing Fee	= \$ 375.00
Forum Fees	= \$ 3,000.00
Total Fees	= \$ 3,375.00
Less payments	= \$ 1,575.00
Balance Due NASD Dispute Resolution	= \$ 1,800.00

Respondent, Goldman, Sachs and Company, is liable for:

Member Fees	= \$ 7,000.00
Adjournment Fee	= \$ 1,200.00
Total Fees	= \$ 8,200.00
Less payments	= \$ 7,000.00
Balance Due NASD Dispute Resolution	= \$ 1,200.00

Respondents, Goldman, Sachs and Company, and Bradford V. Weston, are jointly and severally liable for:

Forum Fees	= \$ 3,000.00
Total Fees	= \$ 3,000.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 3,000.00

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

**ARBITRATION PANEL**

Martha Failing, Esq. - Public Arbitrator, Presiding Chair  
Daniel J. Pagnano, Esq. - Public Arbitrator  
Robert M. Birenbaum - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Martha Failing, Esq.  
Martha Failing, Esq.  
Public Arbitrator, Presiding Chair

October 7, 2004  
Signature Date

/s/ Daniel J. Pagnano, Esq.  
Daniel J. Pagnano, Esq.  
Public Arbitrator

October 6, 2004  
Signature Date

/s/ Robert M. Birenbaum  
Robert M. Birenbaum  
Non-Public Arbitrator

October 7, 2004  
Signature Date

October 7, 2004  
Date of Service (For NASD office use only)

**ARBITRATION PANEL**

Martha Failing, Esq. - Public Arbitrator, Presiding Chair  
Daniel J. Pagnano, Esq. - Public Arbitrator  
Robert M. Birenbaum - Non-Public Arbitrator

**Concurring Arbitrators:**

*Martha Failing*  
Martha Failing, Esq.  
Public Arbitrator, Presiding Chair

OCT 07 2004  
Signature Date

Daniel J. Pagnano, Esq.  
Public Arbitrator

Signature Date

Robert M. Birenbaum  
Non-Public Arbitrator

Signature Date

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*Daniel J. Pagnano*  
Daniel J. Pagnano, Esq.  
Public Arbitrator

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Signature Date

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*10/6/04*  
Signature Date

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Robert M. Birenbaum  
Non-Public Arbitrator

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Daniel J. Pagnano, Esq. - Public Arbitrator  
Robert M. Birenbaum - Non-Public Arbitrator

Concurring Arbitrators:

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Martha Failing, Esq.  
Public Arbitrator, Presiding Chair

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Signature Date


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Daniel J. Pagnano, Esq.  
Public Arbitrator

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Signature Date

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Robert M. Birenbaum  
Non-Public Arbitrator

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10-7-2004  
Signature Date

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Date of Service (For NASD office use only)