

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

George S. & Deborah M. Gottlieb

Name of Respondent(s)

Thomas Lonergan

APR 22 1991
ARBITRATION-CHICAGO
90-01052

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. ("NASD") on April 1, 1990, Claimants George S. Gottlieb and Deborah M. Gottlieb alleged that Respondent Thomas Lonergan misrepresented or failed to disclose the value of "penny" stocks in which the Claimants had invested and which were declining in value; failed to advise Claimants how to avoid the resulting loss; and, misrepresented that Claimants would be given preferred trading rates.

In a Statement of Answer filed with the NASD on May 11, 1990, Respondent Thomas Lonergan denied the allegations of the Statement of Claim, stating that he was not the broker that solicited, sold, or was paid the commissions on the initial transactions, that Claimants listed as investment objectives on the new account form "growth with risk, and speculation-high degree of risk and/or high activity". In addition, Respondent alleges that Claimants were kept fully informed of the positions, Claimant George Gottlieb was aware of the current market values and that the trading rates conformed to the NASD 5% guidelines.

In a Response to the Statement of Answer filed on June 4, 1990, Claimants denied the allegations made by Respondent, stating that Respondent was fully in control of his portfolio from the initial investment, that daily quotes on the stocks bought were difficult to find, and that Claimants were told that the account form was just routine and they should not worry as Respondent would monitor the purchases closely.

RELIEF REQUESTED

Claimants George S. Gottlieb and Deborah M. Gottlieb requested entry of an award against the Respondent Thomas Lonergan in the amount of \$5,016.25 plus filing fees of \$200.00, compensatory damages of \$1200.00 and punitive damages of \$3500.00.

Respondent Thomas Lonergan requested that the Statement of Claim be dismissed and denied in its entirety.

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PROCEDURAL MATTERS

On February 22, 1991 in Chicago, Illinois during a hearing lasting a total of two sessions, the undersigned arbitrator heard the controversy between the parties as set forth in submissions to arbitration signed on April 5, 1990 by Claimants George S. Gottlieb and Deborah M. Gottlieb and on May 2, 1990 by Respondent Thomas R. Lonergan.

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 remains on file with the NASD.


AWARD

The arbitrator, having considered the pleadings, the testimony, and the evidence presented at the hearing, has decided in full and final resolution of the issues submitted for determination as follows:

1. The Statement of Claim is hereby dismissed and denied in its entirety;
2. The parties shall each bear their own respective costs, including attorney's fees, except for those specifically enumerated herein; and,
3. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$75.00 filing fee and refund the hearing session deposit in the amount of \$125.00 previously deposited with the NASD by the Claimants George S. Gottlieb and Deborah M. Gottlieb. Respondent Thomas Lonergan is liable for and shall pay to the NASD forum fees in the amount of \$400.00.

Dated

April 18, 1991


Sheldon I. Saitlin, Esq.
Presiding Chair - Public Arbitrator