

NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of
Securities Dealers, Inc.
NASD Financial Center
33 Whitehall Street
New York, N.Y. 10004
FAX (212) 858-4389

In the Matter of the Arbitration BetweenName of Claimants

Vitaly & Galina Shevoroshkin, JTEN

90-02077

Name of Respondent

David Letourneau

REPRESENTATION

For Claimants Vitaly and Galina Shevoroshkin ("Claimants"): Anthony V. Trogan of Weisman Trogan et al.

For Respondent David Letourneau ("Respondent"): Douglas G. Graham of Butzel Long.

CASE INFORMATION

Statement of Claim filed: July 24, 1990.

Claimants' Submission Agreement signed on: July 13, 1990.

Statement of Answer filed by Respondent: February 20, 1991.

Respondent's Submission Agreement signed on: Respondent's Submission Agreement was incorrectly signed and notarized as required by Section 8 of the Code of Arbitration Procedure.

HEARING INFORMATION

Hearing Dates/Sessions: October 10, 1991/2 sessions
October 11, 1991/2 sessions

Hearing Location: Southfield, MI.

CASE SUMMARY

Claimants alleged Respondent contacted Claimants to solicit their securities business shortly after the market crash in 1987. Claimants stated Respondent criticized their trading activities with their former investment house and indicated he traded stocks using a scientific method which avoided any losses during the crash.

AWARD
#90-02077

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Respondent alleged Shevoroshkin told him he would have \$15,000.00-\$20,000.00 a year to invest and that his investment objectives were "long term growth, growth with risk, speculation-high degree of risk and/or high activity, and that Claimants signed a Blinder account card confirming these objectives.

Respondent asserted Shevoroshkin had been trading in the stock market for many years with his former investment house and impressed him with his knowledge of stocks and bonds.

Respondent stated Shevoroshkin began investing in a portfolio of low-priced growth stocks, that each transaction was made with prior discussion and the approval of Shevoroshkin, and that Shevoroshkin received a confirmation slip after every trade and statements of the account.

Respondent stated Shevoroshkin elected, without solicitation from Respondent, to sell some of the stocks he had transferred from his former investment house to reinvestment the proceeds in low priced stocks. Respondent stated that other than his buy and hold recommendations, very little trading occurred in the account.

Finally, Respondent denied every allegation and denied he breached any laws, rules or common law rights of Claimants.

RELIEF REQUESTED

Claimants requested: actual damages in the amount of \$60,000.00, plus interest; exemplary and punitive damages; costs and attorneys' fees.

Respondent requested: entry of an Award in his favor and against Claimants; dismissal of their arbitration claims; costs and attorneys' fees.

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 originals remain on file with the NASD.

Pursuant to the by-laws of the NASD, Inc. and Section 8 of the Code of Arbitration Procedure it was determined that Respondent was required to submit to this arbitration and, therefore, was bound by this arbitration panel's rulings and determinations;

Blinder Robinson & Co. filed for protection under the bankruptcy laws and, therefore, was no longer a party in this action.

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#99-02077

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Claimants told Respondent they were regularly employed in the Ann Arbor area, had a modest income, and wanted to use their available cash to purchase a retirement home.

Claimants sent Respondent nearly all of their available cash, assets and securities in response to Respondent's representations concerning achievement of their investment goals. Claimants maintained they had little investment skill and relied upon the advice of Respondent.

Claimants alleged Respondent embarked upon a type of trading activity characterized by: immediate liquidation of all securities transferred from Claimant's former investment house; unsuitable purchase and sale of speculative penny shares; full investment of the entire equity in the account; unauthorized trading with notification of purchases and sales after the transactions had been accomplished; purchase and sale of securities which were unregistered in MI; and concealing the true profit/loss of the account.

Claimants alleged Respondent was not registered as a securities broker in MI during the time period in question; Respondent's actions were willful or in negligent disregard of Claimants' investment objectives; the trading activity was not consistent with the declared investment objective of Claimants; the trading was excessive in light of the equity in the account; the risks involved were not disclosed.

Claimants alleged Respondent violated the NASD Rules of Fair Practice, Article III; NYSE Rule 405; the principles of Common Law Fraud; and the Federal and State Securities laws.

Respondent alleged he was licensed and qualified as a registered representative when the allegations complained of transpired. He stated that in June 1987 the Claimants returned a business reply card to Blinder, Robinson & Co. ("Blinder") requesting information about low priced growth stocks. Respondent stated he phoned Claimants and from June until December 1987 he and Vitaly Shevoroshkin ("Shevoroshkin") spoke of Claimants' investment interests and goals and then on December 8, 1987 Claimants opened a joint account with Blinder. Respondent asserted Shevoroshkin told him Claimants had an estimated annual income of about \$57,000.00 and an estimated net worth of about \$150,000.00.

Respondent stated he told Shevoroshkin he should not invest money that would be needed in the short term in growth stocks or invest funds which he could not afford to lose and that Claimants should diversify into more than one or two stocks and hold them for long term application. Respondent also maintained he explained the risks associated with the purchase of low priced stocks.

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AWARD

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

1- Respondent is liable to the Claimants and shall pay to Claimants the sum of FORTY TWO THOUSAND FIVE HUNDRED THIRTY ONE 00/100 DOLLARS (\$42,531.00), interest specifically excluded.

OTHER COSTS

1- Respondent is liable to Claimants for attorneys' fees and shall pay to Claimants the sum of FOURTEEN THOUSAND ONE HUNDRED SIXTY TWO 00/100 DOLLARS (\$14,162.00);

i- Attorneys' fees are awarded in reliance on the following:
MCLA 451.810(a); Prince v. Heritage, 109 Mich App 189 (1981);

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the NASD shall retain the \$150.00 non-refundable filing fee previously deposited and the following Forum Fees are assessed.

4 sessions X \$500.00 = \$2,000.00 minus hearing session deposit of \$500.00 = net \$1,500.00 due.

Forum fees Assessed Against:

1- Respondent in the amount of \$1,500.00. Respondent shall also reimburse Claimants the sum of \$650.00 which represents the non-refundable filing fee and hearing session deposit previously deposited to the NASD, Inc.

Fees are payable to the National Association of Securities Dealers, Inc.

CONCURRING ARBITRATORS

/s/

Levi Gardner, III/Public Arbitrator

/s/

Harry A. Carson/Public Arbitrator

/s/

Thomas C. Girardot/Industry Arbitrator

Date of Decision: November 25, 1991

REPORT OF ARBITRATORS

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Blinder Robinson filed for bankruptcy, failed to answer the Statement of Claim and was not represented at the hearing. From the evidence presented at the hearing, the arbitrators were persuaded that Blinder Robinson was guilty of the acts complained of by Claimants, and, but for the bankruptcy proceedings, they would have awarded Claimants (against Blinder Robinson) compensatory damages, plus interest, attorney's fees and costs, as well as punitive damages.