

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

---

In the Matter of the Arbitration Between

Name of Claimant

Deborah J. Bull

91-01501

Name of Respondents

Gary Goldberg & Company, Inc.  
Gary Goldberg

---

REPRESENTATION

For Claimant: Scott E. Richter, Esq. of Popham Haik, Schnobrich & Kaufman, Ltd., Minneapolis, Minnesota.

For Respondents: Stephen G. Rinehart, Esq. of Parker Chapin Flattau & Klimpl, New York, New York.

CASE INFORMATION

Statement of Claim filed: May 13, 1991.

Claimant's Submission Agreement signed on: April 24, 1991.

Joint Statement of Answer filed by Respondents: July 8, 1991.

Respondents's Submission Agreements signed on: May 23, 1991.

HEARING INFORMATION

Pre-Hearing Conference: November 26, 1991 for one (1) session with Chairman.

Hearing Dates/Sessions: December 4, 1991 for one (1) session,  
March 23, 1992 for two (2) sessions,  
March 24, 1992 for two (2) sessions,  
March 25, 1992 for two (2) sessions.

Hearing Location: Minneapolis, Minnesota.

#### CASE SUMMARY

Claimant Deborah J. Bull ("Bull") alleged that Respondents Gary Goldberg & Company, Inc. and Gary Goldberg (collectively "Goldberg") acted in total disregard of Bull's stated investment objectives, invested her funds in risky and thinly-traded partnership deals, and then concealed from Bull information about the status of these investments. Bull further alleged that when she attempted to cash in her investments she found that she was unable to liquidate the partnerships without taking substantial losses. More specifically, Goldberg invested Bull's money in the following partnerships: Phoenix Leasing Partnership, PIM International Partnership, Damson/Birtcher Partnerships, and Landsing Partnership. Bull alleged that Goldberg did not tell the truth or explain the risks about these investments, and, was repeatedly assured by Goldberg's office assistant that her investments were fine and doing very well. In connection with said investments, Bull alleged the following violations: Federal Securities laws, Breach of Fiduciary Duty, Common Law Fraud, and Negligence.

Respondents Goldberg generally denied the allegations set forth in the Statement of Claim. Goldberg alleged that the investments were consistent with Bull's stated investment objectives. Goldberg further alleged that any damages sustained by Bull was due to her own negligent or reckless conduct.

#### RELIEF REQUESTED

Claimant requested actual damages in the amount of \$100,000.00, punitive damages plus interest, attorney's fees, costs, disbursements, and expenses.

Respondents requested that the claims be dismissed, costs including all hearing fees and reasonable attorney's fees, and other further relief deemed just and proper.

#### 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.

#### 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. Respondents Gary Goldberg & Company, Inc. and Gary Goldberg shall be jointly and severally liable for and shall pay to the Claimant Deborah Bull damages in the amount of Twenty Seven Thousand Four Hundred Fifty Dollars and Four Cents (\$27,450.04). Based on a finding of 75% negligence on Respondents and 25% negligence on Claimant, Claimant's out of pocket damages of \$36,600.06 are reduced to \$27,450.04.

2. The Claimant's claim for punitive damages is denied;

3. Each of the parties shall bear their own costs and expenses, including attorney's fees, other than those specifically enumerated herein.

OTHER COSTS

Respondents Gary Goldberg & Company, Inc. and Gary Goldberg shall be jointly and severally liable for and shall pay to the Claimant Deborah Bul expenses in the amount of Three Thousand Dollars (\$3,000.00) for unreasonable delay at the December 1991 hearing.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed:

7 sessions X \$750.00 = \$5,250.00 minus hearing session deposit of \$750.00 = \$4,500.00 due, plus \$300.00 for the prehearing conference net \$4,800.00 due.

Forum fees assessed against Respondents Gary Goldberg & Company, Inc. and Gary Goldberg, jointly and severally, in the amount of \$4800.00. Respondents shall also reimburse to the Claimant \$950.00 (\$750.00 hearing session deposit and \$200.00 filing fee) which was the amount previously deposited with the NASD.

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

BY THE ARBITRATION PANEL:

Dated:

Douglas D. McFarland, Esq., Chairman  
Public Arbitrator

James P. Trainor, Jr.  
Public Arbitrator

John Robert Kelly  
Industry Arbitrator

June 8, 1992

2. The Claimant's claim for punitive damages is denied;
3. Each of the parties shall bear their own costs and expenses including attorney's fees, other than those specifically enumerated herein.

OTHER COSTS

Respondents Gary Goldberg & Company, Inc. and Gary Goldberg shall jointly and severally liable for and shall pay to the Claimant Deborah Bu expenses in the amount of Three Thousand Dollars (\$3,000.00) for unreasonable delay at the December 1991 hearing.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed:

7 sessions X \$750.00 = \$5,250.00 minus hearing session deposit \$750.00 = \$4,500.00 due, plus \$300.00 for the prehearing conference net \$4,800.00 due.

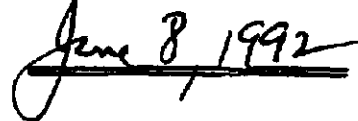
Forum fees assessed against Respondents Gary Goldberg & Company, Inc. and Gary Goldberg, jointly and severally, in the amount of \$4800.00. Respondents shall also reimburse to the Claimant \$950.00 (\$750.00 hearing session deposit and \$200.00 filing fee) which was the amount previously deposited with the NASD.

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

BY THE ARBITRATION PANEL:

  
Douglas D. McFarland, Esq., Chairman  
Public Arbitrator

Dated:

  
June 8, 1992

James P. Trainor, Jr.  
Public Arbitrator

John Robert Kelly  
Industry Arbitrator

2. The Claimant's claim for punitive damages is denied;

3. Each of the parties shall bear their own costs and expenses, including attorney's fees, other than those specifically enumerated herein.

OTHER COSTS

Respondents Gary Goldberg & Company, Inc. and Gary Goldberg shall be jointly and severally liable for and shall pay to the Claimant Deborah Bull expenses in the amount of Three Thousand Dollars (\$3,000.00) for unreasonable delay at the December 1991 hearing.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed:

7 sessions X \$750.00 = \$5,250.00 minus hearing session deposit of \$750.00 = \$4,500.00 due, plus \$300.00 for the prehearing conference = net \$4,800.00 due.

Forum fees assessed against Respondents Gary Goldberg & Company, Inc. and Gary Goldberg, jointly and severally, in the amount of \$4800.00. Respondents shall also reimburse to the Claimant \$950.00 (\$750.00 hearing session deposit and \$200.00 filing fee) which was the amount previously deposited with the NASD.

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

BY THE ARBITRATION PANEL:

Dated:

Douglas D. McFarland, Esq., Chairman  
Public Arbitrator

James P. Trainor, Jr.  
Public Arbitrator

John Robert Kelly  
Industry Arbitrator

5 June 1992