

## NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

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

Name of Claimant

Ralph J. Pollack

91-02671

Name of Respondents

Citicorp Financial Services  
Rindy O'Connor

REPRESENTATION

For Claimant Ralph J. Pollack ("Claimant"): Michael C. Simon, a sole practitioner.

For Respondents Citicorp Financial Services ("Citicorp") and Rindy O'Connor ("O'Connor"): Joseph L. Buckley, of Sills, Cunnis et al.

CASE INFORMATION

Statement of Claim filed: August 14, 1991.

Claimant's Submission Agreement signed on: August 20, 1991.

Joint Statement of Answer filed by Respondents on: December 17, 1991.

Respondent Citicorp's Submission Agreement signed on: December 16, 1991.

Respondent O'Connor's Submission Agreement signed on: December 13, 1991.

HEARING INFORMATION

Hearing Date/Sessions: July 20, 1992/2 sessions.

Hearing Location: NASD, Inc./New York City, NY.

CASE SUMMARY

Claimant alleged he did not sign a margin agreement prior to opening a margin account; and that Citicorp represented it would supervise his margin account and would notify him of any deficiencies giving him an opportunity to cover the margin call. Claimant alleged on October 19, 1987 (the day of the Stock Market Crash) he could not reach O'Connor to place stop or stop/limit orders at a price that would have preserved a portion of his Tiger International, Inc. ("Tiger"), by allowing the sales of enough stock to meet anticipated margin calls. Claimant alleged he spoke with an employee of Citicorp on that day and Claimant asked the employee to calculate the point at which Claimant would be required to bring in additional margin. Claimant realized he had been given an erroneous figure and again tried, unsuccessfully, to reach

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AWARD  
#91-02671  
Page Two

O'Connor.

Claimant alleged on or about October 21, 1987 he telephoned Citicorp and was informed he had to pay \$14,500.00 by 12 o'clock noon the following day to cover the margin call. Claimant alleged he deposited the amount and that following the conversation on or about October 21, 1987, neither O'Connor nor Citicorp informed him of further margin calls. Claimant's additional claims of unauthorized liquidations of his holdings were dropped during the hearing. Claimant alleged that, as a result of his losses, he filed for bankruptcy protection.

Respondents alleged Claimant opened a FOCUS Account with Citicorp and the FOCUS application contained an acknowledgement that Claimant read the Customer Agreement (which contained a provision regarding margin loans) and agreed to its conditions.

Respondents maintained Claimant was aware he had a margin loan outstanding and that the shares of Tiger were sold by him of his own volition. Respondents maintained that even if Claimant did not voluntarily sell his shares, it would have been within Citicorp's right, pursuant to the Customer Agreement, to sell all of Claimant's shares to repay its margin loan. Respondents asserted Claimant realized the decline in net worth was the result of the drop in the stock price rather than any misdeeds of Respondents. Respondents maintained Claimant's loss was due solely to his own response to the decline in the value of Tiger stock due to the Stock Market Crash and not to any action of Respondents.

#### RELIEF REQUESTED

Claimant requested: on the first count - actual damages in the amount of not less than \$75,000.00; trebled to \$225,000.00; punitive damages in the amount of at least \$1,000.00; and attorneys' fees; on the second through fourth counts - actual damages in an amount in excess of \$75,000.00; margin interest in an amount in excess of \$300.00; and punitive damages in an amount in excess of \$1,000.00; on the fifth count - medical and related expenses in an amount in excess of \$50,000.00; punitive damages in an amount in excess of \$1,000.00; on all counts - interest; costs and disbursements; and attorneys' fees.

Respondents requested: Claimant's claims be denied.

#### AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final

AWARD  
#91-02671  
Page Three

resolution of the issues submitted for determination as follows:

- 1- Claimants claims against Respondents are denied;
- 2- All other claims are denied;
- 3- The parties shall each bear their own costs, including attorneys' fees.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the \$250.00 non-refundable filing fee assessed to Claimant has been waived by the arbitration panel and the following Forum Fees are assessed.

2 sessions X \$1,000.00 = \$2,000.00

Forum fees Assessed Against:

- 1- Claimant in the amount of \$1,000.00. As Claimant's hearing session deposit was preliminarily waived by the Director of Arbitration, this amount is due and owing to the NASD;
- 2- Respondents, jointly and severally, in the amount of \$1,000.00. Respondents shall also be assessed the amount of \$1,000.00 to represent the adjournment fee relating to their adjournment request, dated May 12, 1992.

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

Concurring Arbitrators' Signatures

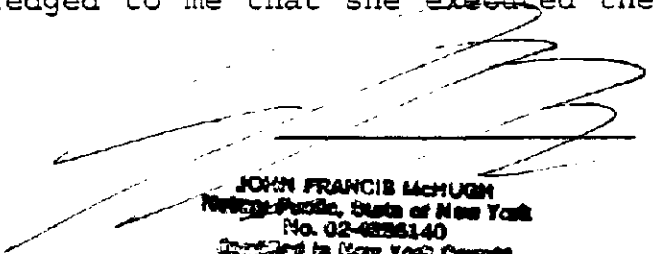
  
Deborah Sherman/Public Arbitrator

Date of Decision: August 27, 1992

STATE OF

COUNTY OF

On this *17<sup>th</sup>* day of *August*, 1992, before me personally appeared Deborah Sherman known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that she executed the same.



JOHN FRANCIS MCHUGH  
Notary Public, State of New York  
No. 02-4886140  
Qualified in New York County  
Commission Expires Feb. 2, 1993

93

AWARD  
#91-02671  
Page Three

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Concurring Arbitrators' Signatures

  
Saverio J. Cina  
Saverio J. Cina/Public Arbitrator

Date of Decision: August 27, 1992

STATE OF New York

COUNTY OF New York

On this 14<sup>th</sup> day of August, 1992, before me personally appeared Saverio J. Cina known and known to me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

*Anne E. Davidson*

ANNE E. DAVIDSON  
Notary Public, State of New York  
No. 314868280  
Qualified in New York County  
Commission Expires March 31, 1994

AWARD  
#91-02671  
Page Three

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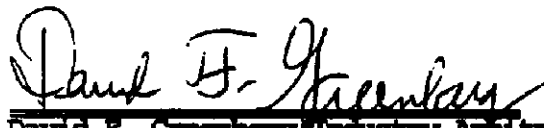
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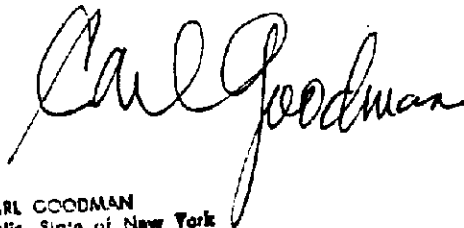


David F. Greenberg, Industry Arbitrator

Date of Decision: August 27, 1992

STATE OF NY  
COUNTY OF NY

On this 26 day of August, 1992, before me personally appeared David F. Greenberg known and known to me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.



CARL GOODMAN  
Notary Public, State of New York  
No. 24-2521638  
Qualified in Rockland County 94  
Commission Expires March 30, 1994