

NASD

Arbitration

N.A.S.D. AWARD

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 Claimant

Jack Luchs

91-02901

Name of Respondents

Grossman & Co.
Dennis Grossman

REPRESENTATION

Claimant Jack Luchs ("Claimant") represented himself.

For Respondents: Dennis Grossman represented himself and Grossman & Co.

CASE INFORMATION

Statement of Claim filed: September 17, 1991.

Claimant's Submission Agreement signed on: September 16, 1991.

Joint Statement of Answer filed by Respondent Grossman & Co. and Dennis Grossman ("Respondents") on: October 30, 1991.

Respondents' Submission Agreements signed on: October 28, 1991.

HEARING INFORMATION

Hearing Date/Sessions: March 31, 1992 - two sessions

Hearing Location: NASD Office - New York City

CASE SUMMARY

Claimant alleged that Respondents through the actions of its agent Dennis Grossman ("Grossman") made material misrepresentations to the Claimant to induce the Claimant to invest with Respondents. Claimant alleged that he informed Grossman of his stated investment objective of preservation of

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capital and investing in conservative investments. Claimant alleged that Respondents failed to comply with his stated investment objective; instead, he alleged that Respondents sold Claimants conservative stocks and placed Claimant in speculative issue. Claimant alleged that he trusted and relied on Grossman completely and gave Grossman discretionary authority over Claimant's account. Claimant alleged that Respondents mishandled his account and that they breached their fiduciary duty that they owed to the Claimant. Claimant alleged that Respondents failed to follow Claimant stated investment goals, needs and objectives to the benefit of the Respondents and to the detriment of the Claimant.

Respondents categorically denied each and every allegation of wrongdoing and specifically maintained that Claimant's account was properly handled. Respondents maintained that Claimant was not a neophyte but rather a sophisticated investor of fairly substantial means. Respondents maintained that when Grossman had discretion over Claimant's account, Claimant made money and that all losses incurred by the Claimant were due to the Claimant's actions after he terminated Grossman's discretionary authority over Claimant's account. Respondents maintained that Claimant was fully informed about how Respondents would handle Claimant's account and how it would be managed. Respondents maintained that they did not breached any fiduciary duties nor were any material misrepresentations made to the Claimant.

RELIEF REQUESTED

Claimant requested: Compensatory damages in the amount of \$15,366.00, plus accrued interest of 9% from October 20, 1986 until the date of the award, filing fees and costs incurred by the Claimant in relation to this arbitration.

Respondents requested: That Claimants claim be denied in its entirety, and that the costs of this arbitration be assessed against the Claimant, and that all costs incurred by the Respondent in defending this matter be assessed against the Claimant.

OTHER ISSUES CONSIDERED & DECIDED

That the Panel has denied Claimant's request for a reasoned opinion in this matter.

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 the NASD.

AWARD

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

1. That Claimant's claim is denied in its entirety.
2. That the parties shall bear their respective costs incurred in defending this matter.
3. That all other claims are denied in their entirety.
4. That pursuant to Section 43(c) of the Code of Arbitration Procedure, the NASD shall retain the hearing session deposited previously submitted by the Claimant.

Concurring Arbitrators' Signatures

Name

Richard W. Vallario

Richard W. Vallario

Frances E. Scanlon

Frances E. Scanlon

Barbara J. Glenns

Barbara J. Glenns

Public/Industry

Public Arbitrator

Public Arbitrator

Industry Arbitrator

Date of Decision: March 31, 1992