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N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Matt Golden et al.

91-03083

Name of Respondent

Boettcher & Company

REPRESENTATION

Claimant, Matt Golden appeared pro se.

Respondent, Boettcher & Company was represented by W. Charles Thomson, Esq. of Gallagher & Kennedy, P.A., Phoenix, Arizona.

CASE INFORMATION

The Statement of Claim was filed with the National Association of Securities Dealers, Inc. ("NASD") on October 2, 1991.

Claimant, Matt Golden's Submission Agreement was signed on August 27, 1991 by Matt Golden.

The Statement of Answer was filed with the NASD by Respondent, Boettcher & Company May 8, 1992.

Respondent, Boettcher & Company's Submission Agreement was signed on April 29, 1992 by A. Brad Buscher, Vice-President and Senior Attorney.

HEARING INFORMATION

The hearing date was November 11, 1992 and the hearing lasted for two (2) sessions.

The hearing location was Scottsdale, Arizona.

CASE SUMMARY

Claimant, Matt Golden, ("Claimant") alleged that Respondent, Boettcher & Company ("Respondent") improperly managed Claimants' accounts and recommended the purchase of stocks that were inconsistent with the Claimants' investment objectives.

In May, 1990 Claimant opened accounts numbered 2230-2084 and 5963-3370 ("Accounts") with the Respondent and purchased 6,400 and 2,000 shares of Circuit Systems, Inc. common stock for each account, respectively. Claimant alleges that these investments were based on faulty information provided by the Respondent's agent and that the purchases were unsuitable given the Claimant's low-risk investment objectives. Subsequently, the value of these stocks decreased resulting in substantial losses to the Claimants' Accounts.

In the Statement of Answer, Respondent denied all liability for the allegations contained in the Statement of Claim and asserted affirmative defenses, including but not limited to:

- 1) The Statement of Claim failed to state a cause of action against Respondent upon which relief can be granted;
- 2) Respondent acted in compliance with all rules and regulations and acted in good faith;
- 3) Respondent caused no damage to Claimants, and any damage suffered was attributable to Claimant's own failure to mitigate or otherwise avoid damages;
- 4) The claims of Claimants are barred by the doctrines of waiver, estoppel and/or the applicable statutes of limitation; and
- 5) The Claimant's investments were suitable under the totality of the circumstances.

RELIEF REQUESTED

Claimant requested \$55,905.29 in actual damages.

Respondent requested that the Statement of Claim be dismissed and that costs of these proceedings be assessed against Claimants.

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.

At the close of Claimant's proofs, the Respondent moved for a directed verdict. The arbitration panel denied the Motion and proceeded to take evidence from the Respondent.

AWARD

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

and final resolution of the issues submitted for determination as follows:

- 1) The Claimants' Statement of Claim is dismissed in favor of the Respondent; and,
- 2) The parties shall each bear their respective costs, expenses and attorney's fees associated with these proceedings.

FORUM FEES

Pursuant to Section 43c of the NASD Code of Arbitration Procedure, the following Forum Fees are assessed. The NASD shall retain the \$150.00 non-refundable claim filing fee and the \$500.00 hearing session deposit previously deposited with the NASD by Claimants. Respondent, Boettcher & Company is assessed and shall pay additional Forum Fees in the amount of \$500.00. Forum Fees were calculated at the rate of \$500.00 per hearing session.

Additional Forum Fees assessed to the parties are payable to the NASD.

Concurring Arbitrators' Signatures

Name

Dated

/S/ Morton M. Scult
Morton M. Scult, Esq.
Presiding Chairperson
Public Arbitrator

November 30, 1992

/S/ Richard M. Davis
Richard M. Davis, Esq.
Panelist
Public Arbitrator

December 21, 1992

/S/ Craig S. Reynolds
Craig S. Reynolds
Panelist
Industry Arbitrator

December 1, 1992

Date Award served by the NASD: December 24, 1992