

NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of
Securities Dealers, Inc.
NASD Financial Center
33 Whitehall Street
New York, N.Y. 10004
FAX (212) 658-4389

In the Matter of the Arbitration Between

Name of Claimant

Joyce Breach

vs.

Case #
91-03164

Name of Respondents

Gruntal & Co., Inc.
Christopher Gautrau

REPRESENTATION

For Claimant, Joyce Breach, Gerald E. Marcus, Esq.

For Respondents, Gruntal & Co., Inc. and Christopher Gautrau, Eric S. Hutner,
Esq. of Gruntal & Co.

CASE INFORMATION

Statement of Claim was filed on October 8, 1991.

Claimant's Submission Agreement was signed on October 4, 1991.

Joint Statement of Answer was filed by Respondents on December 2, 1991.
Respondents did not execute Submission Agreements.

HEARING INFORMATIONHearing Dates/Hearing Sessions:

May 27, 1992	-	One session
June 16, 1992	-	Two sessions
July 16, 1992	-	Two sessions
July 17, 1992	-	Two sessions
July 24, 1992	-	Two sessions.

Hearing Location: National Association of Securities Dealers, Inc.'s offices
located at 33 Whitehall Street, New York, New York.

CASE SUMMARY

Claimant seeks to recover damages which she sustained as a result of

Respondents' alleges negligent, fraudulent and deceitful practices. Claimant alleges that Respondent Gautrau recommended unsuitable investments for her account, committed excessive trades and churned her account for the primary purpose of producing substantial amount of commissions, committed unauthorized and discretionary trades without formal discretionary authority. Claimant further alleges that Gruntal & Co. failed to supervise Gautrau's conduct. Claimant contends that these acts constitute breach of contract, breach of duty, violations of federal and state securities laws, breach of fiduciary duty, violations of the rules and regulations of the National Association of Securities Dealers, Inc. and various exchanges.

Claimant states that she inherited sums of money in 1970 and turned over her inheritance to two other brokerages firms to manage on a discretionary basis. Claimant contends that she was completely dependent upon her broker's knowledge, skill and judgment and that her inheritance was exhausted by the stock market crash of 1987. Claimant alleges that she began driving a limousine in a business she started and this was her sole means of support.

Claimant states that she is 64 years old and was divorced in 1970. Claimant also states that she was introduced to Gautrau by his aunt. Claimant alleges that she described her trading and financial history to Gautrau who stated that he knew how to manage her money in a careful and safe way. Claimant alleges that he promised that she would receive a check each month. Claimant alleges that immediately after she opened he account with Gruntal, Gautrau commenced trading on margin. Claimant alleges that he purchased 1,000 shares of Transco Exploration Partners, Ltd. and \$1,000 shares of International Banknote. Claimant alleges that the only purchase she authorized was Transco Exploration Partners. Claimant also states that she did not know that Gautrau was purchasing securities on margin and that her account was being debited for interest at a rate of approximately 11%. Claimant also alleges that Gautrau purchased options without prior verbal authorization and failed to inform Claimant of the losses sustained in the account. Claimant also alleges that she did not receive any checks as promised.

Respondent denies each and every allegation of wrongdoing set forth in the Statement of Claim. Respondents contend that the recommendations made to Claimant were consistent with her investment objectives and financial circumstances. Respondents contend that each and every recommendation were discussed with Claimant and that Gautrau at most exercised time and price discretion.

Respondents allege that Claimant signed an option qualification form in which she indicated that she had an annual income of \$50,000 and a net worth of \$100,000.00, exclusive of her residence. Respondents state that Gautrau's aunt who was also his customer, purchased Transco Exploration Partners, Ltd. and was enthusiastic about her investment and introduced Claimant as someone who was interested in purchasing the same investment. Respondents contend that at the time Claimant opened her account, she portrayed herself Page 3

differently. Respondents state that Claimant appeared to be wealthy, somewhat eccentric and stated that she had thirty years of experience in the stock market.

RELIEF REQUESTED

Claimant requests an award of:

- a) \$20,061.55 and a refund of all commissions paid in the amount to \$3,900.00;
- b) \$626.52 for lost interest paid Respondents;
- c) Lost income, profit and opportunity which Claimant would have had but for the fact that her account was not well-managed by Respondents;
- d) Punitive damages in an amount to be determined by the arbitrators;
- e) Costs, expenses and disbursements including reasonable attorney's fees in pursuing this arbitration proceeding;
- f) For such other relief as the Arbitration Panel deems just and proper.

Respondent requests that the claim be denied in its entirety.

OTHER ISSUES CONSIDERED AND 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, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent, Gruntal & Co., is hereby liable to Claimant and shall pay her the sum of **FIFTEEN THOUSAND DOLLARS AND NO CENTS (\$15,000.00)**;
2. Respondent, Gruntal & Co., is liable for past interest to the date of the filing of this claim in the amount of **THIRTEEN HUNDRED DOLLARS AND NO CENTS (\$1,300.00)**;
3. Respondent, Gruntal & Co., is further liable to Claimant for disbursements in the amount of **THREE HUNDRED AND FIFTY DOLLARS (\$300.00)**;
4. Respondent, Gruntal & Co., is further liable to Claimant for interest at the legal rate in the State of New York commencing thirty (30)

days after the date of this decision;

5. All claims against Respondent, Christopher Gautrau, are denied in their entirety;
6. The claim for punitive damages is denied;
7. The claim for attorney's fees is denied;
8. All other claims, if any, are denied.

FORUM FEES

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

1. Forum fees in the amount of \$3,600.00 for nine hearing sessions at \$400.00 per session are assessed and shall be borne by Respondent, Gruntal & Co.
2. Gruntal & Co. is further assessed \$100.00 which represents the non-refundable filing fee;
3. Claimant deposited \$400.00 with the NASD and is entitled to a refund of this amount;
4. Gruntal & Co. shall satisfy the assessment by reimbursing Claimant \$400.00 and by remitting the balance, \$3,300.00 to the NASD.

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

Concurring Arbitrator's Signature

Barry A. Mahler, Esq.
Public

Executed on

~~Date of Decision:~~ _____

Date of Decision: September 10, 1992

days after the date of this decision;

5. All claims against Respondent, Christopher Gautrau, are denied in their entirety;

6. The claim for punitive damages is denied;

7. The claim for attorney's fees is denied;

8. All other claims, if any, are denied.

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Concurring Arbitrator's Signature

Michael J. Shalley
Michael J. Shalley, Esq.
Chairperson - Public

Date of Decision: September 10, 1992

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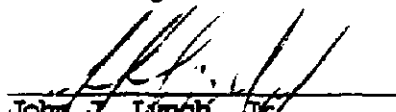
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Concurring Arbitrator's Signature



John J. Lynch, Jr.
Industry

Date of Decision: September 10, 1992