

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Jan & Iris Goldberg

91-04032

Name of the Respondents

Tucker, Anthony & R.L. Day Inc. and
Susan C. Grossman

REPRESENTATION

For Claimants Jan & Iris Goldberg: Stuart Kaufman, Esq. of Fisch & Kaufman.

For Respondents Tucker, Anthony & R.L. Day Inc. and Susan C. Grossman: Paul Lieberman, Esq. in-house counsel at Tucker Anthony & R.L. Day Inc.

CASE INFORMATION

Statement of Claim filed on: December 19, 1991.

Claimants' Submission Agreement signed on: December 2, 1991.

Joint Statement of Answer filed by Respondents, Tucker, Anthony & R.L. Day Inc. and Susan C. Grossman on: February 5, 1992.

Respondent, Tucker, Anthony & R.L. Day Inc.'s Submission Agreement signed on: February 5, 1992.

Respondent, Susan C. Grossman's Submission Agreement signed on: January 17, 1992.

HEARING INFORMATION

Hearing Date/Session: August 4, 1992 / 2 sessions
August 5, 1992 / 2 sessions

Hearing Location: NASD, New York, NY.

CASE SUMMARY

Claimants, alleged that Respondent, Grossman persistently called Claimants pressuring them to open an account with her for Mrs. Goldberg which Claimants did and Respondent Grossman later pressed them to purchase more stocks and then again pressed Claimants to purchase more stocks. Claimants further alleged that the stock plummeted and Respondent Grossman continued to claim the stock would turn around and then urged Claimants to purchase puts of Apple Computer at 1-3/4 and the puts rose to over \$2.00 and Claimants wanted to sell, however Respondent Grossman told Claimants that Respondent Grossman would sell the puts for Claimants as soon as Respondent Tucker, Anthony indicated it should be done. Claimants further alleged the price of options fell and Claimants position was sold at the price of 1/2. Claimants alleged Respondent Grossman's conduct was violative of NASD rules of Fair Practice and here high pressure tactics caused Claimants to accumulate stocks they did not want and prevented them from selling the stock at a time their losses would have been lower.

Respondents maintained that Claimants' investment objectives were speculative and Claimant Mr. Goldberg, appeared to be one of the most astute and knowledgeable speculators and stock trackers that she had ever met. Respondents further maintained that Respondent Grossman did not place or initiate a "continuous stream of calls" to claimants or convince them to invest with her and it was Claimant Mr. Goldberg who initiated contacts seeking trading ideas in low priced stocks and Respondent Grossman did not refuse to place an order for Claimants never gave her order instructions to sell.

RELIEF REQUESTED

Claimants requested: \$67,406.00 in compensatory damages.

Respondents requested: all claims be dismissed in their entirety.

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. Respondent Grossman be hereby is liable and shall pay Claimants the sum of \$2,400.00 inclusive of interest.

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2. Respondent Tucker, Anthony & R.L. Day Inc. be and hereby shall pay Claimants the sum of \$22,400.00 inclusive of interest.
3. The 9,000 shares of Boardroom Business Products shall be returned to Respondent Tucker Anthony.
4. Claimants' claim for punitive damages is denied in its entirety.
5. Each party shall bear their own costs including attorneys' fees.

FORUM FEES

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

4 sessions x \$500.00 = \$2,000.00 less \$500.00 hearing session deposit = \$1,500.00

Forum fees Assessed Against:

Respondents Tucker Anthony and Grossman be and hereby are liable, jointly and severally, and shall pay to the NASD the sum of \$1,000.00 to represent forum fees.

Claimants be and hereby are liable and shall pay the NASD the sum of \$500.00 to represent forum fees.

Respondents Tucker Anthony and Grossman be and hereby are liable and shall pay Claimants the sum of \$75.00 to represent the filing fee.

The NASD shall retain the filing fee and hearing session deposit previously deposited by Claimants.

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

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ARBITRATION PANEL

Name

Public/Industry

CONCURRING ARBITRATORS' SIGNATURE

Charles C. Martotta

Date of Decision: August 21, 1992

STATE OF: NY

S.S.:

COUNTY OF: NY

On this 18 day of August, 1992, before me personally appeared CHARLES MAROTTA known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he/she executed the same.

MARK O. GLUT
Notary Public, State of New York
No. 4285193
Qualified in Queens County
Commission Expires April 20, 1994

Mark O. Glut

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ARBITRATION PANEL

Name

Public/Industry

CONCURRING ARBITRATORS' SIGNATURE

[Signature]

NASD Date of Decision: August 21, 1992

Date of Decision: 8/5/92

STATE OF: New Jersey

S.S.:

COUNTY OF: Union

On this 5th day of August, 1992, before me personally appeared GEORGE R. FREEMAN known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he/she executed the same.

Diana M. Pallante

DIANA M. PALLANTE
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires Mar. 17, 1994

ARBITRATION PANEL

Name

Public/Industry

DAVID W. HAYNES

INDUSTRY

CONCURRING ARBITRATORS' SIGNATURE

David W. Haynes

Date of Decision: August 21, 1992

STATE OF: NEW YORK

S.S.:

COUNTY OF: NEW YORK

On this 19th day of August, 1992, before me personally appeared David W. Haynes known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he/she executed the same.

Diane B. Brendel

DIANE B. BRENDEL
Notary Public, State of New York
No. 60-472257 Qual. in Westchester Co.
Cert. filed in New York County
Commission Expires February 28, 1923