

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Rabbi Shalom Gutnick
Rabbi Meyer Gutnick
Rabbi Chaim Farro
Sorel Eizicovics
Fredda Gordon

vs.

Case #
~~92-01569~~
Consolidated with
#92-01866

Name of Respondents

Robyns Capital Corporation
Eugene Dworkis
Warren Schreiber

REPRESENTATION

For Claimants Rabbi Shalom Gutnick, Rabbi Chaim Farro, Rabbi Meyer Gutnick, Sorel Eizicovics and Fredda Gordon ("Claimants"), Dan Brecher, Esq., from the Law Offices of Dan Brecher located in New York, New York.

Respondent Robyns Capital Corporation ("Robyns Capital"), did not appear at the hearing.

For Respondent, Eugene Dworkis ("Dworkis"), George J. Kundrat, Esq., from Westfield, New Jersey.

For Respondent, Warren Schreiber ("Schreiber"), Jeffrey S. Rosen, Esq., of the law firm of DeMartino Finklestein Rosen and Virga located in Washington, D.C.

CASE INFORMATION

Joint Statement of Claim for Rabbi S. Gutnick, Rabbi C. Farro, Rabbi M. Gutnick and S. Eizicovics, was filed on May 7, 1992.

F. Gordon's Statement of Claim was filed on June 1, 1992.

S. Gutnick's Submission Agreement was signed on April 15, 1992.

C. Farro's Submission Agreement was signed on April 14, 1992.
M. Gutnick's Submission Agreement was signed on April 29, 1992.
S. Eizicovics' Submission Agreement was signed on May 18, 1992.

Motion to Consolidate Case #92-01569 and #92-01866 was filed on June 1, 1992.

Motion to Bar Robyns Capital and Dworkis from Presenting Any Matter, Arguments or Defenses at the hearing was filed on August 13, 1992.

Robyns Capital did not execute a Submission Agreement or file a Statement of Answer.

Dworkis's Statement of Answer was filed on July 15, 1992 and July 16, 1992.
Dworkis' Submission Agreement was signed on February 16, 1993.

Schreiber's Statement of Answer and Response to Motion to Consolidate was filed on July 16, 1992 and July 28, 1992.

Schreiber's Submission Agreement was signed on July 15, 1992 and July 28, 1992.

HEARING INFORMATION

Hearing Dates/Sessions:	February 16, 1993	- 2 sessions
	February 17, 1993	- 2 sessions
	March 17, 1993	- 2 sessions
	March 18, 1993	- 1 session
	May 6, 1993	- 2 sessions
	May 19, 1993	- 2 sessions
	August 18, 1993	- 2 sessions
	August 19, 1993	- 1 session
	October 5, 1993	- 2 sessions
	November 2, 1993	- 2 sessions
	November 3, 1993	- 2 sessions
	December 2, 1993	- 1 session

Hearing Location: NASD offices located in New York, New York.

CASE SUMMARY

Claimants allege that their accounts which were maintained at Robyns Capital were serviced by Dworkis. Claimants also allege that Schreiber was the President, Chief Operating Officer and controlling shareholder of Robyns as well as Dworkis' supervisor.

Claimants, S. Gutnick and Farro, allege that Respondents violated Section 21 of Article III of the Rules of Fair Practice of the National Association of Securities Dealers, Inc. by which they allowed Claimant M. Gutnick to open accounts for S. Gutnick and Farro without proper trading authorization documents. Claimants also allege that they purchased 300,000 shares of Interactive Marketing Services, Inc. ("IMS") for \$100,000 which was unsuitable for them, in that Respondents failed to make inquiry concerning Claimant's financial status, their investment objectives in violation of Sections I and of the NASD's Rules of Fair Practice.

Claimants further allege that Respondents charged excessive mark-up, sold unregistered securities and the confirmations did not disclose that Robyns Capital sold the shares in its capacity as a dealer. Claimants contend that Respondents failed to disclose the high risk involved in IMS. Claimants also contend that Respondents used fraudulent and manipulative devices to induce them to sell IMS.

Claimants further contend that Schreiber removed or converted the assets of Robyns Capital and should be severally liable for its debts. Claimant further contend that Robyns Capital and Schreiber failed to supervise Dworkis.

Claimant Eizicovics alleges that Respondents recommended that she purchase IMS and Stonehill Publishing ("Stonehill") and that such investments were unsuitable for her as they had not spoken with her or obtained any relevant information to determine her investment objectives.

Claimant Gordon alleges that Respondents made unsuitable recommendation concerning the purchase of 40,000 shares of common stock of IMS and 50,000 shares of common stock of Dreamcar Holdings, Inc. without determining whether they were suitable or identifying her investment objectives. Claimant Gordon also alleges similar claims raised by the other Claimants.

Respondent Dworkis asserts six affirmative defenses including defense that the allegations are barred by the statute of limitations.

Respondent Dworkis maintains that he began doing business with M. Gutnick in 1988 when Dworkis was employed by Individual Securities, Inc. and that M. Gutnick transferred his account to Robyns Capital when Dworkis moved to this firm. Dworkis also maintains that M. Gutnick during meeting revealed that he had the power-of attorney to open, maintain and trade securities on behalf of S. Gutnick and Farro. Dworkis further maintains that the securities purchased for the account were consistent with investment objectives M. Gutnick outlined for the accounts despite cautions.

Respondent Dworkis contends that the losses sustained in IMS were attributable to the unforeseen

market crash of October, 1989 and Gordon's failure to implement stop-loss strategy. Respondent Dworkis also contends that the losses in Dream Car Corp. resulted from pure greed of the Gordon account.

Respondent Schreiber asserts ten affirmative defenses to the claims raised by F. Gordon, eleven affirmative defenses to the allegations raised by S. Gutnick, C. Farro, M. Gutnick and S. Eizicovics and denies wrongdoing and denies liability.

RELIEF REQUESTED

Claimants request an award of damages as follows:

- (a) \$7,000 for S. Gutnick and M. Gutnick;
- (b) \$83,000 for Farro and M. Gutnick;
- (c) \$34,000.00 for Claimant Eizicovics;
- (d) Punitive damages in an amount to be determined by the panel;
- (e) Fair and reasonable attorneys fees to be determined by the panel;
- (f) Interest on the claims and costs and disbursements.

Respondent Dworkis requests that all claims be dismissed and that he be awarded the costs of defending this action including attorney's fees.

Respondent Schreiber requests that all claims be dismissed and that he be awarded attorney's fees.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed to receive conformed copies of the award while the originals remain on file with the NASD.

As previously stated Robyns Capital did not appear at the hearing, file an answer or execute a Submission Agreement. Based upon the information presented by the NASD staff concerning hearing notices provided to the parties and, in consideration of Claimants Motion' to Bar Respondents Robyns and Dworkis from presenting Any Matter, Arguments or Defenses at the hearing, this panel finds that notice was given to Robyns Capital and proceeded with the hearing in its absence. The Motion was denied as to Dworkis.

The following motions were considered and decided in this decision.

- (1) Decision on Motion to Dismiss Eizicovics claim related to the Stonehill investment was reserved.
- (2) Motion to Reopen case to allow testimony of Eizicovics was denied.

- (3) Motion to conform pleading to proof was granted.
- (4) Claimants' Motion for an award pursuant to Sections 12(2) and 10b(5) and common law denied.
- (5) Implied motion to incorporate Section 5 of the Act and Rule 10(b)5 into the complaint is denied.

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. All claims against all Respondents concerning Stonehill and Dream Car are denied.
2. All Claimants are awarded a total of **NINETY EIGHT THOUSAND FIVE HUNDRED DOLLARS AND ZERO CENTS (\$98,500.00)** plus interest at the rate of nine percent from March 25, 1994 until paid.
3. The specific amount awarded to each Claimant is as follows:
 - (a) Dworkis is hereby liable for a total award of **FORTY NINE THOUSAND TWO HUNDRED FIFTY DOLLARS AND ZERO CENTS (\$49,250.00)**. In favor of S. Gutnick **TEN THOUSAND ONE HUNDRED AND SIXTY TWO DOLLARS AND FIFTY CENTS (\$10,162.50)**. In favor of Chaim Farro **TWENTY FOUR THOUSAND THREE HUNDRED AND THIRTY SEVEN DOLLARS AND FIFTY CENTS (\$24,337.50)**. In favor of S. Eizicovics **EIGHT THOUSAND EIGHT HUNDRED AND FIFTY DOLLARS AND ZERO CENTS (\$8,850.00)**. In favor of F. Gordon **FIVE THOUSAND NINE HUNDRED DOLLARS AND ZERO CENTS (\$5,900.00)**.
 - (b) Robyns Capital is liable to Claimants for a total of **FORTY NINE THOUSAND TWO HUNDRED AND FORTY SIX DOLLARS AND ZERO CENTS (\$49,246.00)**. In favor of S. Gutnick \$10,161.50. In favor of C. Farro \$24,336.50. In favor of S. Eizicovics \$8,849.00. In favor of F. Gordon \$5,899.00.
 - (c) Schreiber is liable to each Claimant for **ONE DOLLAR (\$1.00)** and all costs and expenses of the NASD as outlined in the Forum Fees Section of this decision.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following Forum Fee(s) are assessed against Warren Schreiber.

Non-refundable Filing Fee: \$200.00.

Hearing Session Fees: \$750.00 x 21 session = \$15,750.00.

Total Fees: \$15,950.00.


1. Claimants, S. Gutnick, C. Farro, M. Gutnick and S. Eizicovics, deposited \$950.00 and are entitled to a refund in the amount of \$750.00.
2. Claimant, F. Gordon, deposited \$650.00 and is entitled to a refund in the amount of \$650.00.
3. Schreiber shall satisfy the fees assessed by reimbursing Claimants \$950.00 and \$650.00 and by remitting the balance \$14,350.00 to the NASD.

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

ARBITRATION PANEL

Richard H. Rosenblum, Esq.	-	Public Chairperson
Eugene J. McCabe, Esq.	-	Public Panelist
Alexander Stewart Barnes	-	Industry Panelist

Concurring Arbitrator's Signature



Richard H. Rosenblum, Esq.

Date of Decision: May 9, 1994

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Concurring Arbitrator's Signature

Alexander Stewart Barnes
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Date of Decision: May 9, 1994

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Total Fees: \$15,950.00.

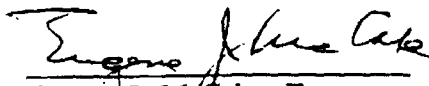
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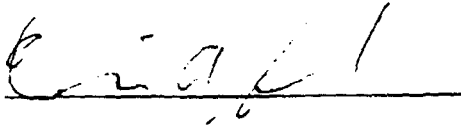

Eugene J. McCabe, Esq.

Date of Decision: May 9, 1994

STATE OF NEW YORK
COUNTY OF

S.S.:

On this 20th day of May, 1994, before me personally appeared Richard H. Rosenblum known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.

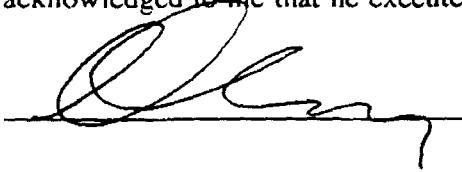
A handwritten signature in dark ink, appearing to read "Craig A. Saunders", is written over a horizontal line.

CRAIG A. SAUNDERS
Notary Public, State of New York
No. 30-4997102
Qualified in Nassau County
Commission Expires June 1, 1994

STATE OF NEW YORK
COUNTY OF

S.S.:

On this 9th day of May, 1994, before me personally appeared Alexander Stewart Barnes 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.



PAULINE I. BAILLY
NOTARY PUBLIC, State of New York
No. 24-4940303
Qualified in Kings County
Ex. 18, 1994

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STATE OF NEW YORK
COUNTY OF

S.S.:

On this 6 day of May, 1994, before me personally appeared Eugene J. McCabe 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.

Deborah A. DeJesus

DEBORAH A. DEJESUS
Notary Public, State of New York
No. 02DE5022979
Qualified in New York County
Commission Expires January 24, 1996