

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Michael Melford

92-02165

Name of Respondents

Salvatore Marchiano
A.S. Goldman & Co., Inc.

REPRESENTATION

For Claimant: Jonathan Kord Lagemann, Esq., a sole practitioner.

For Respondent: Steven Rogers, Esq. of Kelley Drye & Warren.

CASE INFORMATION

Statement of Claim filed: June 25, 1992.

Claimant's Submission Agreement signed on: June 23, 1992.

Joint Statement of Answer filed by Respondents, A.S. Goldman & Co., Inc. and Salvatore Marchiano on: September 11, 1992.

Respondent, A.S. Goldman & Co., Inc.'s Submission Agreement signed on: September 11, 1992.

Respondent, Salvatore Marchiano's Submission Agreement signed on: September 11, 1992.

HEARING INFORMATION

Pre-Hearing Conference: June 23, 1993.

Hearing Date/Sessions: June 28, 1993 - 2 Sessions.

Hearing Location: NASD Offices - New York, NY.

CASE SUMMARY

Claimant alleges that he opened an account at Respondent, A.S. Goldman, & Co., Inc. ("Goldman") after he was solicited by a registered representative. Claimant alleges that he had traded securities with other firms and was aware of the risks associated with that practice. Claimant alleges that he received a call from Respondent, Salvatore Marchiano ("Marchiano") indicating that he would handle the account in place of Claimant's former broker who had left the firm.

Claimant alleges that Marchiano solicited the purchase of Pamet Systems, Inc. warrants ("Pamet warrants"). Claimant alleges that he authorized Marchiano to purchase \$40,000 of warrants and authorized the sale of another security to cover the transaction. Claimant alleges that he received his confirmation notice which stated that he had purchased \$75,000 of the Pamet warrants and had sold 40,000 warrants of the other security. Claimant alleges that he contacted Marchiano immediately, but Marchiano refused to reverse the trade or adjust the size of the purchase.

Claimant alleges that he is entitled to rescission of the Pamet warrant purchase because the purchase was induced by misrepresentations of fact and misleading claims, because Goldman and Marchiano failed to ensure that the price was favorable under prevailing market conditions, and because the trade was unauthorized.

Respondents maintain that Claimant was familiar with the Pamet company and was pleased by their performance, therefore, Marchiano recommended the purchase of Pamet warrants. Marchiano denies that he recommended that Claimant sell another security to cover this purchase. Respondents maintain that Claimant instructed Marchiano to sell 40,000 warrants of the other security and to purchase as many Pamet warrants as he could with the proceeds from the sale. Respondents maintain that Marchiano executed Claimant's order exactly as it was given, and that it was Marchiano's practice to take orders in terms of number of shares, not dollar amounts.

Respondents maintain that Claimant did not call Marchiano to dispute the transaction and that Claimant has waived any objections to the trades. Respondents deny that Marchiano made misrepresentations about the company to induce the purchase.

RELIEF REQUESTED

Claimant requested damages in the amount of \$75,000.00 plus interest at the legal rate, in return for tender of the Pamet warrants purchased in his account. Claimant requested costs of this proceeding be assessed against the Respondents.

Respondents requested that the Claims be denied in its entirety plus an award of costs of this action.

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.

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) Respondents, A.S. Goldman & Co., Inc. and Salvatore Marchiano are hereby jointly and severally liable and shall pay to the Claimant the amount of \$35,000.00 (THIRTY FIVE THOUSAND DOLLARS AND NO CENTS).
- 2) Claimant is hereby directed to return to the Respondent, A.S. Goldman & Co., Inc. 8,750 warrants of Pamet Systems, Inc.
- 3) Interest at the rate of 9% is awarded on the above amount from June 25, 1992 until the date the award is paid.
- 4) Each party shall bear their respective costs of this action, except that the Respondents shall re-imburse to the Claimant the amount of \$500.00 Claimant previously deposited with the NASD, Inc., as detailed below.
- 5) All other Claims are hereby denied.

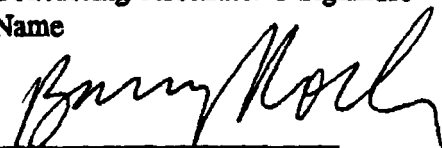
FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fee(s) are assessed:

\$150.00	Non-refundable filing fee
\$1,000.00	Hearing Session Fees (2 sessions x \$500.00)

- 1) The NASD, Inc. shall retain the \$150.00 non-refundable filing fee paid by the Claimant.
- 2) As directed above, Respondents shall re-imburse to the Claimant the amount of \$500.00 Claimant previously deposited with the NASD, Inc.
- 3) Respondent, A.S. Goldman & Co., Inc and Salvatore Marchiano are hereby jointly and severally assessed the balance of the forum fees in the amount of \$500.00 and shall pay this amount to the NASD, Inc.

Concurring Arbitrator's Signature
Name



Barry Koch, Esq.

Public Chairperson

Date of Decision: August 6, 1993

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STATE OF NEW YORK
COUNTY OF

S.S.:

On this day of July, 1993, before me personally appeared Barry Koch 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 cursive script, appearing to read "Eric Leven", is written over a horizontal line.

ERIC LEVEN
Notary Public, State of New York
No. 31-4966982
Qualified in New York County
Commission Expires Sept. 30, 1993

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\$1,000.00 Hearing Session Fees (2 sessions x \$500.00)

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- 2) As directed above, Respondents shall re-imburse to the Claimant the amount of \$500.00 Claimant previously deposited with the NASD, Inc.
- 3) Respondent, A.S. Goldman & Co., Inc and Salvatore Marchiano are hereby jointly and severally assessed the balance of the forum fees in the amount of \$500.00 and shall pay this amount to the NASD, Inc.

Concurring Arbitrator's Signature
Name

Industry Arbitrator


Edward S. DeSalvio

Date of Decision: August 6, 1993

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New Jersey
STATE OF NEW YORK
COUNTY OF *Bergen* S.S.:

On this *30th* day of July, 1993, before me personally appeared Edward S. DeSalvio 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.

Barbara King

BARBARA KING
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES NOV. 10, 1998

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- 1) The NASD, Inc. shall retain the \$150.00 non-refundable filing fee paid by the Claimant.
- 2) As directed above, Respondents shall re-imburse to the Claimant the amount of \$500.00 Claimant previously deposited with the NASD, Inc.
- 3) Respondent, A.S. Goldman & Co., Inc and Salvatore Marchiano are hereby jointly and severally assessed the balance of the forum fees in the amount of \$500.00 and shall pay this amount to the NASD, Inc.

Concurring Arbitrator's Signature
Name

Public Arbitrator


Anne Cugliani

Date of Decision: August 6, 1993

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STATE OF NEW YORK
COUNTY OF

S.S.:

On this day of July, 1993, before me personally appeared Anne Cugliani known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that she executed the same.

A handwritten signature in cursive script, appearing to read "Anne Cugliani", is written over a horizontal line.