

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between:

Name of Claimant

Gary Aharoni

92-03866

Name of Respondents

Ladenburg Thalman & Company, Inc.
Michael Zaroff

REPRESENTATION

For Claimant: Gary Aharoni appearing pro se.

For Respondents: Norman S. Lawi, Esq. of Ladenburg, Thalman & Company.

CASE INFORMATION

Statement of Claim filed: November 13, 1992.

Claimant's Submission Agreement signed on: November 9, 1992.

Joint Statement of Answer filed by Respondents, Ladenburg, Thalman & Company and Michael Zaroff on: January 29, 1993.

Respondent's Submission Agreement signed on: January 28, 1993.

HEARING INFORMATION

Hearing Date/Sessions: August 5, 1993/2 Sessions

Hearing Location: NASD offices located in New York City.

CASE SUMMARY

Claimant alleged that Respondent Michael Zaroff (Zaroff") told him to buy two stocks, Consecro and Organogenesis and that Organogenesis declined in value. Claimant further alleged that when he asked Respondent Zaroff what he should do, Respondent Zaroff told him not to worry and that he would get back 20% or better. Claimant alleged that Respondent Zaroff then asked him if he wanted to buy Consecro on margin and that when Claimant asked if it would make money, Respondent Zaroff said that it would and told Claimant that money would not be lost with Consecro. Claimant further alleged that he asked Respondent Zaroff how Consecro on margin worked and that Respondent Zaroff told him that he would sell when the price rose five points. Claimant alleged that he also asked Respondent Zaroff what would happen if Consecro went down and Respondent Zaroff told him it would not. Claimant further alleged that Consecro went down from \$70 a share to \$20 a share, he refused to give Respondent Zaroff any more money and that Respondent Zaroff sold 700 shares, leaving claimant with 100 shares. Claimant alleges that if Respondent Zaroff had answered his questions truthfully, he would never have entered into a margin agreement.

Respondents made a Motion to Dismiss for failure to state a cause of action. Respondents also denied each and every allegation in the Statement of Claim except that Claimant opened and maintained an account with Respondent Ladenburg, Thalmann & Company ("LTC"). Respondent Zaroff maintained that he informed Claimant of the effect that a margin account would have on the purchase and sale of any securities in his account and that Claimant executed a Margin Lending Agreement without coercion. Respondents further maintained that Claimant assumed all of the risks in purchasing the subject securities which were effected pursuant to proper authorization. Respondents also maintained that Claimant sold his positions in Consecro and Organogenesis subsequent to transferring his account from Respondent LTC, which had a net result of turning any losses which may have previously existed into a net profitable situation. Respondents also maintained that Consecro had a 2 for 1 split and that, by claiming that Consecro depreciated in value Claimant made a misstatement and misrepresentation of fact.

RELIEF REQUESTED

Claimant request an award in the amount of \$20,439.30.

Respondents request that the claim be dismissed in its 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. The Respondents, Ladenburg, Thalman and Company and Michael Zaroff are hereby jointly and severally liable and shall pay to the Claimant the sum of \$5,000.00.
2. Each party bear their respective costs, including attorneys' fees.
3. Respondents shall pay all forum fees for the cost of this arbitration including the non-refundable filing fee.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum fee are assessed:

\$100.00 non-refundable filing fee - 2 Sessions X \$400.00 = \$800.00.

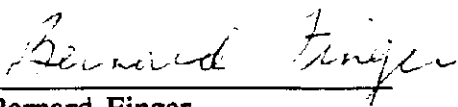
Claimant deposited \$520.00 with the NASD and is entitled to a refund of \$520.00.
Respondents shall jointly and severally pay the NASD the sum of \$900.00.

The Respondents shall satisfy this amount by reimbursing Claimant \$520.00 and paying the NASD the sum of \$380.00.

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

Arbitrator's Signature
Name

Public/Industry


Bernard Finger

Industry

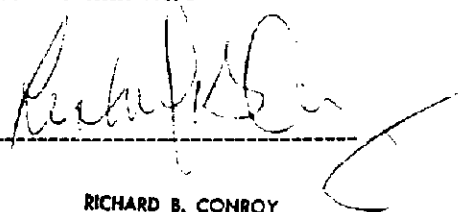
Date of Decision: September 21, 1993

STATE OF *NEW YORK*

COUNTY OF *SULLIVAN*

S.S.:

On this *10TH* day of *SEPTEMBER*, 1993, before me personally appeared **Bernard Finger** 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



RICHARD B. CONROY
Notary Public, State of New York
Sullivan County Clerk's # 1217
Commission Expires *1/31/94*

AWARD

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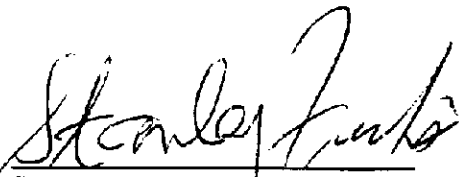
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Arbitrator's Signature
Name

Public/Industry


Stanley Fuchs, Esq.

Public

Date of Decision: September 21, 1993

STATE OF *New York*
COUNTY OF *New York*

S.S.:

On this *14th* day of *September*, 1993, before me personally appeared Stanley Fuchs, Esq. 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

John Tresnowske

JOHN TRESNOWSKE
Notary Public, State of New York
No. 31-4017800
Qualified in New York County
Commission Expires Sept 30, 1993

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 Respondents, Ladenburg, Thalman and Company and Michael Zaroff are hereby jointly and severally liable and shall pay to the Claimant the sum of \$5,000.00.
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Arbitrator's Signature
Name

Public/Industry


John J. Phelan, Esq.

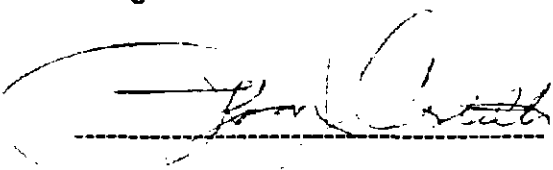
Public

Date of Decision: September 21, 1993

STATE OF *New York*
COUNTY OF *NEW YORK*

S.S.:

On this *15th* day of *September*, 1993, before me personally appeared **John J. Phelan, Esq.** 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


ROBERT J. COSTELLO
Notary Public, State of New York
No. 30-4743993
Qualified in Nassau County
Commission Expires March 20, 1995