

## N.A.S.D. REGULATION AWARD

## NATIONAL ASSOCIATION OF SECURITIES DEALERS REGULATION, INC.

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In the Matter of the Arbitration Between

Name of Claimant

Thomas V. Grohmann

93-02043

Name of Respondents

James Scullen  
James Coutlakis

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REPRESENTATION

Claimant Thomas V. Grohmann ("Claimant") was represented by Jeffrey P. Bloom, Esq., Duane Morris and Heckscher, Washington, D.C.

Respondent James Scullen ("Scullen") and James Coutlakis ("Coutlakis") were represented by Michael Q. Carey, Esq., New York, NY.

CASE INFORMATION

The Statement of Claim was filed May 24, 1993.

Claimant's Submission Agreement was signed on May 15, 1993.

The Joint Statement of Answer filed by Respondents Scullen and Coutlakis (collectively "Respondents") was filed July 28, 1993.

Respondent Scullen's Submission Agreement was signed on July 27, 1993.

Respondent Coutlakis' Submission Agreement was signed on July 27, 1993.

HEARING INFORMATION

Pre-Hearing Conference: August 4, 1995/one session  
February 26, 1997/one session

Hearing Dates/Sessions: March 27, 1997/two sessions  
March 28, 1997/two sessions  
March 31, 1997/two sessions

Hearing Location: ANA Hotel  
Washington, D.C.

CASE SUMMARY

Claimant alleged that Respondents, utilizing high pressure sales tactics and misleading information, recommended to Claimant securities which were unsuitable and inappropriate for an individual in

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Claimant's circumstances and with Claimant's investment objectives. Claimant alleged that Respondents had effective control over the account and failed to advise Claimant of the true nature of the risk involved with the securities he was purchasing and misled him in an attempt to prevent him from discovering the risk. Claimant alleged that Respondents' actions were in violation of the NASD Rules of Fair Practice and constituted a breach of contract between the parties, a breach of fiduciary duties, and common law fraud. Claimant further alleged that, as branch manager, Respondent Scullen failed to adequately supervise Respondent Coutlakis in the management of Claimant's account and therefore, was negligent in his supervision. Claimant alleged that the actions of Respondents caused him to suffer damages.

Respondents denied the allegations of wrong-doing.

#### **RELIEF REQUESTED**

Claimant requested compensatory damages in the amount of \$75,000.00 plus pre-award interest.

Respondents requested that the statement of claim be dismissed.

#### **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. That Respondent Coutlakis is liable to and shall pay to Claimant the sum of \$24,740.00 inclusive of interest.
2. That Respondent Scullen is liable to and shall pay to Claimant the sum of \$9,401.00 inclusive of interest.
3. That each party shall bear its own costs and expenses with the exception of the forum fees as addressed below.
4. That any and all relief not specifically addressed herein is denied.

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**FORUM FEES**

Pursuant to Rule 10332(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed:

2 prehearing conferences x \$300.00 = \$ 600.00

6 hearing sessions x \$500.00 = \$3,000.00

**Total Forum Fees = \$3,600.00**

Forum Fees are assessed against Claimant at \$1,800.00, Respondent Coutlakis at \$900.00 and Respondent Scullen at \$900.00. Claimant is to receive credit for the \$500.00 hearing session deposit previously submitted to the NASD Regulation, leaving a net assessment due from Claimant of \$1,300.00. Respondents Coutlakis and Scullen each have a net assessment due of \$900.00.

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

**DATE****CONCURRING ARBITRATORS' SIGNATURES**

\_\_\_\_\_  
Marvin Elster, Chairman  
Public Arbitrator

\_\_\_\_\_  
Robert L. Dennis  
Public Arbitrator

4/16/97

\_\_\_\_\_  
*Steven R. Bralove*

Steven R. Bralove  
Industry Arbitrator

Date Decision Served by NASD Regulation:

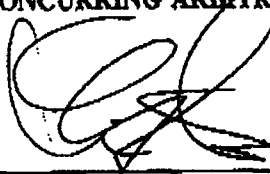
April 18, 1997

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DATE

APR 8, 1997

CONCURRING ARBITRATORS' SIGNATURES



Marvin Elster, Chairman  
Public Arbitrator

Robert L. Dennis  
Public Arbitrator

Steven R. Bralove  
Industry Arbitrator

Date Decision Served by NASD Regulation:

April 18, 1997

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Page 4

DATE

CONCURRING ARBITRATORS' SIGNATURES

\_\_\_\_\_

Marvin Elster, Chairman  
Public Arbitrator

4/8/97

Robert L. Dennis  
Robert L. Dennis  
Public Arbitrator

\_\_\_\_\_

Steven R. Bralove  
Industry Arbitrator

Date Decision Served by NASD Regulation: April 18, 1997