

NATIONAL ASSOCIATION OF SECURITIES DEALERS

Name of Claimant

vs.

94-01860

A.S. Goldman & Co., Inc.
Paul Cilmi

For Claimant, Stanley R. Jakeboski ("Claimant"), James P. O'Neill, Esq. formerly with the law firm of Townley & Updike located in New York, New York, and now attorney-at-law located in Garden City, New York.

For Respondents, Paul Cilmi and A.S. Goldman & Co. (collectively "Respondents") Lina Liberatore, Esq. from the law firm of Bachner, Tally Polevoy & Misher located in New York, New York.

Statement of Claim was filed on May 17, 1994.

Claimant's Submission Agreement was signed on May 12, 1994.

Joint Statement of Answer was filed by Respondents A.S. Goldman & Co., Inc. and Paul Cilmi, on July 28, 1994.

Respondent, Cilmi's Submission Agreement was signed on July 18, 1994

Respondent A.S. Goldman's Submission Agreement was signed on July 25, 1994.

Pre-Hearing Conferences: March 23, 1995 - 1 Session
June 14, 1995 - 1 Session

Hearing Dates/Sessions: June 27, 1995 - 2 Sessions
September 26, 1995 - 2 Sessions
September 27, 1995 - 2 Sessions

Hearing Location: American Arbitration Association located at 133 Federal Street in Boston, Massachusetts and NASD offices located at 260 Franklin Street located in Boston, Massachusetts.

CASE SUMMARY

Claimant alleges that Respondent Cilmi used high pressure sales tactics in order to get Claimant to purchase 100,000 shares of Sports Media stock. Claimant also states that he told Mr. Cilmi that he needed to discuss this purchase first with his financial advisor and his sons, since the investment would be for his son's benefit. Claimant further states that his financial advisor indicated that the speculative nature of the security and the size of the trade was unsuitable for him and that he would call Mr. Cilmi. Claimant alleges that his financial advisor was told by Mr. Cilmi that Claimant had already purchased the shares. Claimant also alleges that Mr. Cilmi that trade was done without his authorization and that Mr. Cilmi previously, without Claimants authorization, submitted a trade of 50,000 rather than 30,000 shares of this same stock.

Claimant states that he received several calls from Mr. Cilmi where he used hard sell, aggressive tactics to get Claimant to pay for the unauthorized trade. Claimant also states that after the calls ended, he received a "sell-out" confirmation which informed him that Respondents, without his authorization, sold 120,564 shares of the same stock to pay for the previous unauthorized trade of 100,000 shares. Claimant contends that this resulted in a total loss of \$87,397.00 in account.

Respondents deny the allegations of wrongdoing and assert ten defenses. Respondents maintain that all transactions in Claimant's account were authorized and that the sell-out in Claimant's account was in a dollar amount equivalent to the debit in Claimant's account due to Claimant's failure to pay for securities he purchased. Additionally, Respondents contend that Claimant received confirmation of the trade, failed to object in a timely manner and is, therefore, estopped from asserting any claims. Respondents further contend that Claimant failed to mitigate his damages.

RELIEF REQUESTED

Claimant requests an award of \$87,397.00, multiple damages plus interest and attorney fees.

Respondents request an award dismissing the Statement of Claim in its entirety and awarding costs and disbursements including reasonable attorney's fees to Respondents.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that a handwritten, signed Award may be entered. In this case, the parties have agreed to receive a conformed copy of the Award while the original remains on file with the NASD.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing and post hearing submissions, filed by Claimant dated October 16, 1995 and by Respondents dated October 16, 1995 and October 19, 1995, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents, Paul Cilmi and A.S. Goldman, are jointly and severally liable to Claimant and shall pay him **NINETY ONE THOUSAND SIX HUNDRED AND SEVENTY TWO DOLLARS AND SIXTY-FIVE CENTS (\$91,672.65)** with interest at rate of six percent (6%) annually from February 24, 1994 until the date of payment;
2. Claimant's request for multiple damages is denied;
3. Each party shall pay its or his own attorney's fees and shall bear costs of its or his witnesses; notwithstanding any subpoena or order of appearance obtained by the adverse party for said witness.
4. Respondent A.S. Goldman shall reimburse Claimant expenses out lined in the Forum Fees section of this decision.

FORUM FEES

Pursuant to Section 43c of the *Code of Arbitration Procedure*, the following Forum Fees are assessed against Respondent A.S. Goldman & Co.

Non-refundable Filing Fees-	\$ 150.00
Hearing Session Fees	\$ 4,000.00 (8 sessions @ \$500.00 per session)
Pre-Hearing Conference Fees	\$ 600.00 (2 sessions @ \$300.00 per conference)
Total Fees	<u>\$ 4,750.00</u>

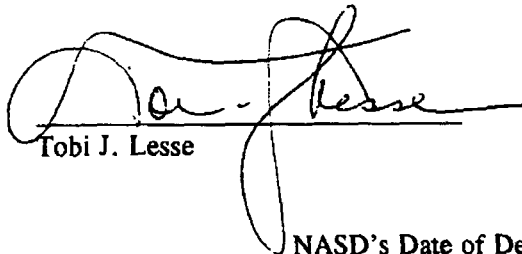
1. Respondent A.S. Goldman shall reimburse Claimant all filing fees paid by Claimant which amounts to \$650.00.
2. A.S. Goldman is further liable and has paid \$500.00 in connection with the postponement of the hearing that was scheduled for April 18, 1994.
3. A.S. Goldman is further liable for \$120.00 for the cost of tape duplication.
4. Claimant was invoiced and has paid \$60.00 for the cost of duplication of tapes.
5. The total balance owed by A.S. Goldman to NASD is \$4,220.00.

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

ARBITRATION PANEL

Lawrence R. Bowers, Esq.	-	Public Chairperson
Joseph P. Carmichael, Esq.	-	Public Panelist
Tobi J. Lesse	-	Industry Panelist

Concurring Arbitrator's Signature



Tobi J. Lesse

NASD's Date of Decision: January 18, 1996

ARBITRATION PANEL

Lawrence R. Bowers, Esq.	-	Public Chairperson
Joseph P. Carmichael, Esq.	-	Public Panelist
Tobi J. Lesse	-	Industry Panelist

Concurring Arbitrator's Signature



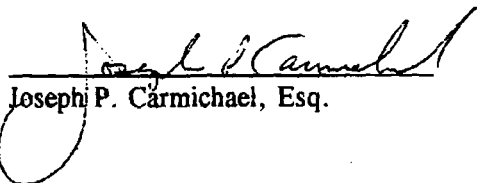
Lawrence R. Bowers, Esq.

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Joseph P. Carmichael, Esq.

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