

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Elliot Braun

95-00237

Name of Respondents

A.S. Goldmen & Co., Inc.  
Chris J. Richardson

**REPRESENTATION**

Claimant Elliot Braun ("Claimant") appeared pro se.

For Respondents Chris Richardson ("Richardson") and A.S. Goldmen & Co., Inc. ("A.S. Goldmen") appeared Phoebe A. Wilkinson, Esq. of the law firm of Chadbourne & Parke LLP located in New York, New York.

**CASE INFORMATION**

Statement of Claim filed: January 17, 1994.

Claimant's Submission Agreement signed on: January 13, 1995.

Joint Statement of Answer filed by A.S. Goldmen and Richardson on: March 13, 1995.

Respondent Richardson's Submission Agreement signed on: February 24, 1995.

Respondent A.S. Goldmen's Submission Agreement signed on: February 24, 1995.

**HEARING INFORMATION**

Hearing Dates/Sessions: September 21, 1995 - 2 Sessions

Hearings were held at the offices of the NASD, Inc. located in New York, N.Y.

**CASE SUMMARY**

Claimant alleged that after being solicited by Respondent Richardson, he authorized Richardson on August 11, 1994 to purchase 750 warrants of Country Star Restaurants, Inc. at \$9.375 per warrant. Claimant further alleged that he had first declined to purchase the warrants and only authorized the purchase after Richardson assured him that, in the event of a market decline, Richardson would take him

out of the issue at not less than \$8.875 per warrant.

Claimant alleged that, after the price of the warrants started to decline to and below \$8.875, he attempted to contact Richardson to determine if the warrants were sold on accordance with their agreement. Claimant further alleged that each time he called he was told Richardson was unavailable. Claimant alleged that when he did speak with Richardson, Richardson indicated that he had not sold the warrants whereupon Claimant insisted upon an immediate sale of the warrants which had declined to \$6.625.

Claimant alleged that Richardson stated that he took responsibility for the loss and offered to either credit Claimant's account for the loss or wait for the next scheduled initial public offering, Cinema Ride, and Richardson would provide him with sufficient warrants to more that double his losses. Claimant alleged that he agreed to wait for the offering and take the warrants.

Claimant alleged that immediately prior to the opening of the offering on September 27, 1994 he was told by Richardson that he was to received 2600 warrants and 1000 shares of common stock. Claimant further alleged that, on September 28, 1994, he was assured that he was receiving the warrants, which had immediately risen in value to \$2.25 per warrant, but that the tickets evidencing the sale had not been returned from trading. Claimant further alleged that he received a confirmation for the purchase of the common stock, but not for the purchase of the warrants.

Claimant alleged that he was informed that Richardson was unable to give him the warrants because of a limited allocation and that the warrants were given to problem accounts. Claimant also alleged that he was later informed that his account had been placed on a restriction and that the warrants could not be purchased because cash had to be in the account. Claimant maintained that he had sufficient cash remaining in his account to purchase the warrants.

Respondents Richardson and A.S. Goldmen & Co. Inc., denied that any representations or guarantees were made by Richardson or by any other person associated with A.S. Goldmen as to the projected market performance of any security or any limitation of market risk on investments made by Claimant. Respondents denied that Richardson offered to Claimant, or accepted from him, any manner of "stop-loss" order or guaranteed the performance of Claimant's investment. Respondents further maintained that Claimant had been informed and was at all times advised that the allocation of securities on the initial public offering was subject to revision up to and including the moment the offering became effective.

#### **RELIEF REQUESTED**

Claimant requested damages of \$7,262.50, representing actual losses of \$2,062.50 and lost profits of \$5,200.00.

Respondents A.S. Goldman and Richardson requested that the Statement of Claim be dismissed in its entirety and that Respondents be granted all costs and expenses of this action.

#### **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. Respondents A.S. Goldmen and Richardson be and hereby are jointly and severally liable and shall pay Claimant the sum of \$1,406.25.
2. Each party shall bear their own costs, including attorneys' fees, except that Respondents A.S. Goldman and Richardson be and hereby are liable and shall pay to Claimant the sum

of \$275.00 to reimburse Claimant for fees he previously paid to the NASD

3. All other claims are hereby denied.

#### **FORUM FEES**

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the arbitrator has assessed the following forum fees:

non-refundable filing fee	= \$ 75.00
2 hearing sessions x \$200.00	= \$400.00
Total fees assessed	= \$475.00
minus amount previously paid to NASD=	\$275.00
Total amount of fees outstanding	= \$200.00

Respondents A.S. Goldman and Richardson be and hereby are jointly and severally liable for the sum of \$475.00, representing the total amount of fees assessed and shall pay to the NASD the sum of \$200.00, representing the amount of fees outstanding.

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

#### **ARBITRATOR'S SIGNATURE**

  
Ann C. Northern, Esq.  
Public Chairperson

Date of decision: December 6, 1995

I, Ann C. Northern, Esq., do hereby affirm that this is my decision in the above-captioned matter.



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