

NASD AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Name of Claimant

Jack J. Grynberg

and

95-00559

Name of Respondent

A.S. Goldmen & Co., Inc.

REPRESENTATION OF PARTIES

Jack J. Grynberg ("**Claimant**") was represented by Neil E. Ayervais, Esq., Lohf, Shaiman & Jacobs, P.C., Denver, Colorado.

A.S. Goldmen & Co., Inc. ("**Respondent**") was represented by Robert J. Hausen, Esq., Chadbourne & Parke, New York, New York.

CASE INFORMATION

The Statement of Claim was filed on or about February 2, 1995. Amended Statement of Claim was filed on or about February 17, 1995. Submission Agreement of Claimant Jack J. Grynberg was signed on January 24, 1995.

Statement of Answer was filed by Respondent A.S. Goldmen & Co., Inc. on or about May 3, 1995. Submission Agreement of Respondent A.S. Goldmen & Co., Inc. was signed on May 1, 1995 by Stuart Winkler.

HEARING INFORMATION

The hearing was held on November 15, 1995 in Denver, Colorado for a total of two (2) sessions.

CASE SUMMARY

Claimant alleged that in responding to a cold call from a representative of Respondent, he purchased 35,000 shares of Cinema Ride, Inc. being offered through a private offering. It was also alleged that during the course of the conversation, Respondent's agent agreed that the Claimant would purchase

the shares of Cinema Ride, Inc. only if he would be allocated the offering equivalent of his purchase of the 35,000 shares.

Respondent denied the allegations set forth in the Statement of Claim. Respondent specifically stated that there was never any discussion of a future promise of the Cinema Ride securities in the event that the company chose to raise capital through an initial public offering.

RELIEF REQUESTED

Claimant requested an award in an amount equal to the difference between \$5.00 per share and the highest per-share sales price for such stock, up to and including the date of hearing, in an amount no less than \$151,875, costs, interest and such other and further relief as may be deemed appropriate.

Respondent requested that the claims asserted against it be denied in their entirety and that it be awarded costs and expenses incurred in this matter.

OTHER ISSUES CONSIDERED & DECIDED

At the conclusion of the hearing, Wednesday, November 15, 1995, Respondent A.S. Goldmen & Co., Inc. requested an adjournment of the hearing scheduled to proceed on Thursday, November 16, 1995 and Friday, November 17, 1995 to produce a witness, J. Donahue, for testimony. After hearing the arguments presented on behalf of the parties, the arbitration panel concluded the hearing and advised the parties that the panel would take the request under advisement. On November 28, 1995, the parties were advised that the arbitration panel had decided to **deny** the request of Respondent and closed the evidentiary hearing.

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 original(s) 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. Respondent A.S. Goldmen & Co., Inc. shall be and hereby is liable for and shall pay to the Claimant Jack J. Grynberg the sum of **fifty thousand dollars (\$50,000)**.
2. Interest at the rate of 8% per annum is awarded on the above stated sum from and inclusive of December 22, 1993 to and inclusive of the date this award is paid in full.

3. The Private Placement Memorandum of Cinema Ride, Inc., signed by Jack J. Grynberg is voided and Certificate #98 representing 35,000 shares of Cinema Ride, Inc. common stock is to be returned to A.S. Goldmen & Co., Inc.
4. Each party shall bear its own costs, expenses and attorneys' fees incurred in this matter not specifically enumerated herein.

FORUM FEES

Forum fees are calculated at the rate of \$600 per hearing session and \$300 for each prehearing conference, if any. There were two (2) sessions x \$600 = \$1,200 in forum fees. Pursuant to §43(b) a hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less.

Pursuant to §43(c) of the NASD Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. ("NASD") shall **retain** the non-refundable filing fee in the amount of \$250 and shall **retain** as forum fees the hearing session deposit in the amount of \$600 previously deposited with the NASD by the Claimant Jack J. Grynberg. Respondent A.S. Goldmen & Co., Inc. shall be and hereby is liable for and shall pay to the NASD the sum of \$600 as the balance due for forum fees.

Pursuant to §45 of the NASD Code of Arbitration Procedure, the NASD shall **assess** against Respondent A.S. Goldmen & Co., Inc. the non-refundable member surcharge in the amount of \$200.

The NASD shall refund postponement fees in the amount of \$750 previously deposited with the NASD by Respondent A.S. Goldmen & Co., Inc. **Fees are payable to the National Association of Securities Dealers, Inc.**

Dated:

/s/ Robert L. Druva

Robert L. Druva

Public Arbitrator, Presiding Chair

December 19, 1995

/s/ Carl G. Mohr

Carl G. Mohr

Public Arbitrator

December 19, 1995

/s/ Roy J. Burr, Jr.

Roy J. Burr, Jr.

Industry Arbitrator

December 20, 1995