

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Michael Pizitz

95-02198

Name of Respondents

A.S. Goldmen & Co., Inc.
Anthony Salino

REPRESENTATION

For Claimant, Michael Pizitz ("Pizitz"), Thomas L. Krebs, Esq. of the law firm Ritchie & Rediker, P.C. located in Birmingham, Alabama.

For Respondents, A.S. Goldmen & Co., Inc. ("Goldmen") and Anthony Salino ("Salino"), Phoebe A. Wilkerson, Esq. of the law firm Chadbourne & Parke and Foster Gibbons, Esq. in-house counsel to A.S. Goldman both located in New York, New York.

CASE INFORMATION

The Statement of Claim was filed on May 5, 1995. Claimant's Submission Agreement was signed on April 27, 1995.

The Statement of Answer was filed by Respondents on June 28, 1995. Respondent, Goldmen's Submission Agreement was signed on May 16, 1995. Respondent, Salino's Submission Agreement was signed on May 15, 1995.

HEARING INFORMATION

Hearing Dates/Sessions:	June 11, 1996	-	2 Sessions
	June 12, 1996	-	2 Sessions

The hearings took place at The Ritz Carlton in Atlanta, Georgia.

CASE SUMMARY

Claimant alleged that on February 23, 1995, he received a telephone call from his broker, Respondent Salino. Claimant contended that Respondent Salino asked him for help, specifically, to buy 29,000 shares of Innovative Tech System Warrants ("Innovative") at a price of 2 7/16. Claimant further alleged that Respondent Salino guaranteed to sell those securities no later than March 15, 1995 at a minimum profit of 1/8 per share. Claimant asserted that he originally denied Respondent Salino's request but after a second plea for Claimant's help he purchased the shares of Innovative.

Claimant alleged that on or about March 13, 1995 he called Respondent Salino and was informed that the price of Innovative had dropped to \$1.00 per share. Claimant further alleged that he requested that Respondent Salino make good on his guarantee but he refused to do so pleading for more time. Claimant asserted that he agreed to give Respondent Salino more time so long as he would put the guarantee in writing or on a tape recording. Claimant alleged that Respondent Salino refused to do so and therefore Claimant wrote a letter to Respondent Salino and Respondent Goldmen's compliance department regarding the problems he encountered.

Claimant alleged that after sending the letter, Respondents refused to answer his phone calls and have not responded to his letter. Claimant asserted that misrepresentations made by Respondent Salino as a broker for Respondent Goldmen caused him substantial losses.

Respondents maintained that Pizitz is bringing this claim solely because he bought a security on his broker's recommendation and the investment did not perform as he would have liked. Respondents further maintained that Pizitz has a solid record of profitable investments with Respondent Goldmen and now attempts to lay blame for market losses on the broker who recommended the investment and the brokerage firm that executed the trade. Respondents contended that Pizitz made an informed investment decision and suffered losses due to price fluctuations which are inherent in the stock market.

Respondents maintained that at no time did Respondent Salino ask for "help" nor did he make any "guarantees" of any sort. Respondents maintained that Pizitz willingly authorized the purchase of Innovative warrants without any guarantees or promises of profitability being made and with full understanding of the nature of the security in which he was investing his funds.

Respondents also maintained that Pizitz has a history of investing in warrants. Respondents contended that not only did Pizitz buy warrants at eight other times, he actually purchased warrants of Innovative in July of 1994. Respondents maintained that this investment history is in no way indicative of an investor who was induced to buy warrants. Respondents also maintained that Pizitz was a sophisticated investor and cannot claim to have been swayed by pressure tactics or meaningless promises. Respondents also contended that account executives at Goldmen do not and are not permitted to make guarantees or promises against loss. In fact, Respondents maintained that Pizitz requested a guarantee against loss and

Respondent Salino told him that he could not guarantee against loss, and that as a sophisticated investor, he knew this.

Respondents further maintained that on or about March 13, 1995, Respondent Salino did indeed speak to Pizitz but did not plead for more time. Respondents contended that Salino advised Pizitz to hold the securities in the hope that the price for the warrants would begin to rise and Pizitz agreed and decided to hold the warrants.

RELIEF REQUESTED

Claimant requested:

1. \$27,835.50, which represents the difference between the cost of purchase and the proceeds of the sale of the 29,000 shares of Innovative Tech System Warrants;
2. interest at 6% from the date of purchase;
3. costs and attorneys' fees; and
4. such other damages as the arbitration panel shall allow.

Respondents requested:

1. Statement of Claim be dismissed in its entirety; and
2. costs incurred in this matter.

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. Respondents be and hereby are joint and severally liable and shall pay Claimant the sum of \$15,000.00.
2. Each party shall bear their own costs, including attorneys' fees.

3. All other claims be and hereby are denied.
4. Respondents are jointly and severally liable and shall pay to Claimant the sum of \$400.00 representing reimbursement of the hearing session deposit paid by Claimant.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the arbitrators have determined that the NASD shall retain the \$100.00 non-refundable filing fee previously deposited by Claimant and have assessed the following forum fees:

4 Sessions x \$400.00	=	\$1600.00
less Claimant's hearing session deposit		<u>\$ 400.00</u>
Total outstanding		\$1200.00

The arbitrators have determined that Respondent A.S. Goldman & Co shall bear one-half the cost of the arbitration and that Respondent Anthony Salino shall bear one-half the cost of the arbitration.

Respondent A.S. Goldmen & Co. be and hereby is liable and shall pay to the NASD the sum of \$600.00 representing one-half of the total forum fees assessed.

Respondent Anthony Salino be and hereby is liable and shall pay to the NASD the sum of \$600.00 representing one-half of the total forum fees assessed.

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

ARBITRATORS' SIGNATURES

A handwritten signature in cursive script, appearing to read "James R. McGuone", written over a horizontal line.

James R. McGuone, Esq.
Public Chairperson


George H. Loughery
Public Arbitrator

Michael J. Stern
Industry Arbitrator

Date of Decision July 10, 1996

ARBITRATORS' SIGNATURES

James R. McGuone, Esq.
Public Chairperson


George H. Loughery
Public Arbitrator

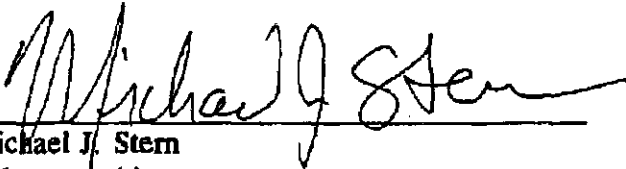
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