

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Allan and Gloria Silverstein

95-03762

Name of Respondents

Gruntal & Co., Inc.
Daniel C. Balestra

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on August 3, 1995, Claimants Allan and Gloria Silverstein ("Claimants"), who appeared Pro Se, alleged that Respondent Gruntal & Co., Inc., through its account executive, Respondent Daniel C. Balestra ("Balestra"), recommended unsuitable investments, such as Time Warner bonds, which were not in accordance with their stated investment objective of "safety of principal", and further that the Respondents' contention that their objectives were growth and speculation only were not correct. Claimants further alleged that Balestra was very persuasive and that every purchase they made was based on his recommendations. Claimants contended that Respondents charged commissions which were "outrageously high". Claimants further contended that as a result of the Respondents' wrongdoing, they have suffered a loss for which the Respondents should be held liable.

Respondents Gruntal & Co., Inc. and Daniel C. Balestra, through in-house counsel, Emilia M. De Meo, Esq., maintained that Claimants informed Balestra that their investment objectives were growth and speculation. Respondents further maintained that all of the securities purchased in Claimants' Gruntal account were suitable and in accordance with their objectives. Respondents contended that they did not charge Claimants excessive commissions, and further contended that the commissions charged were well within the general industry limit of 5%. Respondents maintained that they committed no wrongdoing, and therefore, should not be held liable in this matter.

In a Reply to the Answer, the Claimants refuted the defenses of the Respondents, reiterating that Respondents made money, but they suffered losses, for which they should be compensated.

RELIEF REQUESTED

Claimants Allan and Gloria Silverstein, requested \$9,873.00 in actual damages.

Respondents Gruntal & Co., Inc. and Daniel C. Balestra, requested that the claims of the Claimants be dismissed.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, William A. Mechman, Esq. was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants Allan and Gloria Silverstein, on July 21, 1995, but not by the Respondents Gruntal & Co., Inc. and Daniel C. Balestra, as required by Sections 12 and 13 of the NASD Code of Arbitration Procedure.

And, the Arbitrator, having considered the proof of the parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The claims of the Claimants Allan and Gloria Silverstein, against the Respondents Gruntal & Co., Inc. and Daniel C. Balestra, are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants Allan and Gloria Silverstein, shall be retained by the NASD, Inc.

AFFIRMATION

I, **WILLIAM A. MECHMAN**, do hereby affirm, pursuant to Article 7507 of the Civil Procedure Law and Rules, that I am the individual described herein and who executed this instrument, which is my oath and award.


WILLIAM A. MECHMAN

DATE OF DECISION: March 28, 1996