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NASD AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

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Securities Dealers, Inc.

In the Matter of the Arbitration Between

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Lee Fein

Claimant

NASD Arbitration

v.

No. 9504228

A. S. Goldman & Company

Respondent

REPRESENTATION OF PARTIES

Lee Fein ("**Claimant**") was represented by Patrick N. Keegan, Esq., Krause & Kalfayan, San Diego, California.

A. S. Goldman & Company ("**Respondent**") was represented by Phoebe A. Wilkinson, Esq., & Company, Chadbourne & Park, New York, New York.

CASE INFORMATION

Claimant's Statement of Claim was filed on or about September 5, 1995. Claimant's Submission Agreement was signed on August 31, 1995.

Respondent A. S. Goldman & Company's Statement of Answer was filed on or about April 24, 1996. Respondent's Submission Agreement was signed on November 2, 1995.

HEARING INFORMATION

A pre-hearing conference was held on April 24, 1996.

The hearing was held on April 30, 1996 in San Diego, California for a total of 2 sessions.

CASE SUMMARY

Claimant alleged that after he responded to a cold call from the Respondent and had made three or four approved trades, the Respondent conducted a series of trades which were unauthorized. Claimant alleged Respondent's actions constituted a breach of fiduciary duty as well as fraud.

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Respondent denied the allegations set forth in the Statement of Claim. Respondent specifically argued that Claimant participated in and authorized ail trades in his account. Respondent further argued that Claimant received **confirmations** and account statements on all trades and that Claimant didn't make any complaints until well **after** the trades were completed. Additionally, Respondent argued that **Claimant** failed to mitigate any damages.

RELIEF REQUESTED

Claimant requested an award in the amount of **\$28,318.32**, plus costs and attorney's fees. Additionally, Claimant requested an unspecified amount of punitive damages.

Respondent requested that the claims asserted against it be denied in its entirety and that it be awarded its costs and attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that a **handwritten**, signed Award may be entered. The parties have agreed to receive conformed copies 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 the post-hearing submissions, the undersigned arbitrators have decided in **full** and **final** resolution of the issues submitted for determination as follows:

1. Claimant is awarded and Respondent shall pay to Claimant the sum of **\$23,337.36**.
2. Claimant is awarded and Respondent shall pay to Claimant the sum of **\$100.00**. This amount represents the non-refundable filing fee paid by the Claimant to the NASD.
3. Each side to bear their respective costs and attorney's fees.
4. Claimant's request for punitive damages is denied.

FORUM FEES

Forum fees are calculated at the rate of \$400 per hearing session and \$300 for each **prehearing** conference, if any. There were 2 sessions x \$400 = \$800, plus 1 pm-hearing session x ~~\$300~~ = \$300 for a total of **\$1,100.00** in forum fees. Pursuant to §43(b) of the NASD Code of Arbitration Procedure (the "Code"), a hearing session is any meeting between the parties and the arbitrator(s),

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including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less. Pursuant to § 43(c) of the Code of Arbitration Procedure, the Respondent shall pay the entire amount of forum fees.

Total Fees	
2 Hearing Sessions @ \$400.00 -	\$800.00
1 k-hearing Session @ 6300 -	\$300.00
T o t a l	<u>\$1,100.00</u>

Forum Fees	\$1,100.00
Credit for Deposit	<u>-0.00-</u>
Respondent's Balance	<u>\$1,100.00</u>

Pursuant to §43(c) of the Code, the NASD shall retain the non-refundable filing fee in the amount of \$100 and shall refund forum fees the hearing session deposit in the amount of \$400 previously deposited with the NASD by the Claimant Lee Fein.

Pursuant to §45 of the Code, the NASD shall retain the member surcharge fee in the amount of \$200 previously paid by A. S. Goldman & Company.

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

Dated:

Harvey C. Flodin
Harvey C. Flodin, Esq.
Public Arbitrator, Presiding Chair

Jerry L. Murase
Jerry L. Murase
Public Arbitrator

Warren R. Grundmeyer
Warren R. Grundmeyer
Industry Arbitrator

Date Served: June 5, 1996

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including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less. Pursuant to § 43(c) of the Code of Arbitration Procedure, the Respondent shall pay the entire amount of forum fees.

Total Fees	
2 Hearing Sessions @ \$400.00 -	\$800.00
1 Pre-hearing Session @ \$300 -	\$300.00
Total	<u>\$1,100.00</u>
Forum Fees	\$1,100.00
Credit for Deposit	<u>-</u>
Respondent's Balance	\$1,100.00

Pursuant to §43(c) of the Code, the NASD shall retain the non-refundable filing fee in the amount of \$100 and shall refund forum fees the hearing session deposit in the amount of \$400 previously deposited with the NASD by the Claimant Lee Fein.

Pursuant to §45 of the Code, the NASD shall retain the member surcharge fee in the amount of \$200 previously paid by A. S. Goldman & Company.

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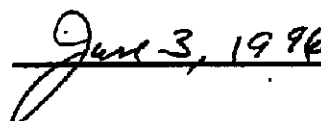
Dated:

Harvey C. Flodin, Esq.
Public Arbitrator, Presiding Chair



Jerry L. Murase
Public Arbitrator

Warren R. Grundmeyer
Industry Arbitrator



June 3, 1996

Date Served: June 5, 1996

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NASD Arbitration No. 95-04228
Award Page 3 of 3

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Total Fees	
2 Hearing Sessions @ \$400.00 =	\$800.00
1 Pre-hearing Session @ \$300 =	\$300.00
Total	\$1,100.00
Forum Fees	\$1,100.00
Credit for Deposit	<u>-0.00</u>
Respondent's Balance	\$1,100.00

Pursuant to §43(c) of the Code, the NASD shall retain the non-refundable filing fee in the amount of \$100 and shall refund forum fees the hearing session deposit in the amount of \$400 previously deposited with the NASD by the Claimant Lee Fein.

Pursuant to §45 of the Code, the NASD shall retain the member surcharge fee in the amount of \$200 of the Code previously paid by A. S. Goldman & Company.

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

Dated:

Harvey C. Flodin, Esq.
Public Arbitrator, Presiding Chair

Jerry L. Murase
Public Arbitrator


Warren R. Grundmeyer
Industry Arbitrator

5/30/96
Date Served: June 5, 1996