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N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the matter of the Arbitration Between

Name of Claimants

Nora Duncan

v.

NASD Arbitration  
No. 9504333

Name of Respondents

A.S. Goldmen & Company and Phillip E. Steele

REPRESENTATION

For Claimant:

Steve A. Buchwalter, Esq. and Bruce Garfield  
Law Offices of Steve A. Buchwalter  
Encino, California

For Respondent A.S. Goldmen & Company:

Robert J. Hausen  
Chadbourne & Parke LLP  
New York, New York

For Respondent Phillip E. Steele:

Richard P. Levy, Esq.  
Sheila R. Caudle  
Gibson, Dunn & Crutcher LLP  
Los Angeles, California

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### CASE INFORMATION

Statement of Claim filed:	September 12, 1995
Claimant's Submission Agreement signed:	August 29, 1995
Statement of Answer and Cross Claim filed by Respondent A.S. Goldmen & Company:	November 2, 1995
Statement of Answer filed by Respondant Philip E. Steele:	November 2, 1995
Respondent A.S. Goldmen & Company's Submission Agreement signed:	November 2, 1995
Respondent Philip E. Steele's Submission Agreement signed:	October 25, 1996

### HEARING INFORMATION

Pre-Hearing Conference Date / Session:	September 9, 1996 (1 session)	Pre-Hearing Conference
Hearing Dates / Sessions:	September 17, 1996 (2 sessions)	Hearing Dates / Sessions
	September 18, 1996 (2 sessions)	
	October 8, 1996 (2 sessions)	
	October 9, 1996 (2 sessions)	
Hearing Location:	Los Angeles, California	

### CASE SUMMARY

Claimant alleged that Respondents recommended unsuitable securities, breached their fiduciary duty to Claimant, engaged in fraud and churning, committed conversion, and acted negligently.

Respondent A. S. Goldmen & Company denied the allegations of wrongdoing found in the Claimants Statement of Claim and filed a Counterclaim against Respondent Philip E. Steele for indemnity. The Counterclaim against Respondent Philip E. Steele was withdrawn prior to the commencement of the arbitration hearings on the merits.

Respondent Philip E. Steele denied the allegations of wrongdoing found in the Claimants Statement of Claim.

**RELIEF REQUESTED**

Claimant requested compensatory damages of approximately \$58,500.00 for net account losses, compensatory damages of \$39,000.00 for the allegedly unauthorized transfer and conversion of the Claimant's funds, and recovery of allegedly excessive commissions generated by Respondents.

Claimant also requested that punitive damages be awarded and that pre- and post-award interest be awarded at the maximum legal rate allowed by law from the date of Claimant's initial investments in November 1994.

Claimant also requested recovery of the costs of arbitration, including expert witness fees and any other costs deemed reasonable.

Respondent A.S. Goldman & Company requested that the Claimant's Statement of claim be dismissed in its entirety and that all costs and expenses, including reasonable attorney's fees be awarded to A.S. Goldman & Company.

Respondent Philip E. Steele requested that Claimant take nothing by her Statement of Claim and sought recovery of costs and attorney's fees incurred in this matter.

**OTHER ISSUES CONSIDERED AND DECIDED**

The parties have agreed that the Award in this matter may be executed in either 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 remains 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 A.S. Goldman & Company and Philip E. Steele are jointly and severally liable to and shall pay Claimant the sum of \$35,000.00.
2. Claimant's claim for punitive damages is denied in its entirety
3. The parties shall each bear their respective costs, including attorney's fees.

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**FORUM FEES**

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

One Pre-hearing Conference @ \$300.00/Session	=	\$ 300.00
Eight Hearing Sessions @ \$500.00/Session	=	\$ 4,000.00

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Total Forum Fees Assessed	=	\$ 4,300.00
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Claimants' one-half share	=	\$ 2,150.00
Credit for Hearing Session Deposit	a	\$ 500.00

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Claimants' Balance Due	=	\$ 1,650.00
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Respondents' joint and several one-half share	=	\$ 2,150.00
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Respondents' Balance Due	m	\$2,150.00
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Fees are payable to the National Association of Securities Dealers, Inc.

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**ARBITRATORS**

**Name.....Public / Industry**

**Larry Maize.....Industry**

**Robert J. Ruben.....Public**

**Charles Bloomfield.....Public**

**Concurring Arbitrators' Signatures**

**Larry Maize**

**Robert J. Ruben**

**Charles Bloomfield**

**Date of Decision:**

0079/1986

**Date of Service:**