

**NATIONAL ASSOCIATION OF SECURITIES DEALERS**

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In the Matter of the Arbitration Between

Name of Claimant

Louis Schoenberger

95-04392

Name of Respondent

Beacon Securities, Inc.  
Gary L. Donahue  
Gus Geldman

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REPRESENTATION

Claimant Louis Schoenberger ("Claimant") was represented by Michael F. Bachner, Esq. and David A. Gehn, Esq., New York, NY.

Respondent Beacon Securities, Inc. ("Beacon") did not appear.

Respondent Gary L. Donahue ("Donahue") did not appear.

Respondent Gus Geldman ("Geldman") did not appear.

CASE INFORMATION

The Statement of Claim was filed September 14, 1995.  
Claimant's Submission Agreement was signed on April 20, 1995.

Respondents Beacon, Donahue and Geldman (collectively "Respondents") did not file Answers to the Statement of Claim.

Respondents did not submit executed Submission Agreements.

HEARING INFORMATION

Hearing Date/Sessions: May 22, 1996/one session

Hearing Location: Via Telephone Conference Call

CASE SUMMARY

Claimant, alleged among other things, that Respondents engaged in unauthorized, unregistered and unsuitable trading in Claimant's account with the sole benefit to generate revenue for Respondents. Claimant alleged that Geldman called Claimant in December 1993 and induced Claimant to open an account with Beacon. Claimant alleged that at the time of the call, Geldman was not registered to sell securities in Ohio, Claimant's state of residence. Claimant alleged that Geldman persuaded Claimant to authorize the purchase of one thousand (1,000) shares of Bancroft Holdings ("Bancroft")

for \$7.50 per share. Claimant alleged that in January 1994 Geldman made an unauthorized purchase of three thousand (3,000) more shares of Bancroft at \$7.50 per share. Claimant alleged that also in January 1994, Geldman convinced Claimant to transfer all Claimant's shares in American Electric Power, Inc., Ashland Oil, Chrysler, Peco Energy Co. and Southern Company. Claimant alleged that on the same day that Claimant transferred his assets to Beacon, Geldman made another unauthorized purchase of three thousand (3,000) shares of Bancroft at \$7.50 per share. Claimant alleged that on January 20, 1994, Geldman made an unauthorized sale of two thousand shares of Bancroft for \$6.00 per share. Claimant alleged that on February 4, 1994, Geldman sold almost all the remaining assets in Claimant's account, without authorization, in an attempt to pay the debit balance created by the unauthorized purchases in Claimant's account. Claimant alleged that when Claimant received the confirmation notices and Claimant's March account statement, Claimant called Geldman and demanded information on the unauthorized transactions. Claimant alleged that Geldman assured Claimant that there must have been an error and that all Claimant's shares were still in Claimant's account. Claimant alleged that he called Geldman a few weeks later and was informed by Beacon that Geldman was no longer employed by Beacon. Claimant alleged that Claimant's attempts to obtain assistance from Beacon were without success. Claimant alleged that Respondents violated Section 10(b) of the Securities Exchange Act of 1934 and Rule 10(b)-5 promulgated thereunder by fraudulently misrepresenting the risks of the unsuitable investments they were recommending to Claimant. Claimant alleged that Respondents knew that Respondents were making false representations to the Claimant with the intent that Claimant would rely upon those representations to his detriment. Claimant alleged that Respondents breached their contract with Claimant as well as their fiduciary duty. Claimant alleged that Respondents violated the NASD Rules of Fair Practice, Article III, Section 2, which required firms to deal fairly with the public in good faith. Claimant alleged that Respondents violated federal securities laws when Respondents consummated transactions when Respondents were not registered to sell securities within the State of Ohio. Claimant alleged that Beacon and Donahue failed to supervise Geldman in the management of Claimant's account. Claimant alleged that the Respondents must be held liable for Respondents' fraudulent actions.

Respondents Beacon, Donahue and Geldman failed to submit answers to the allegations raised in the Statement of Claim.

#### RELIEF REQUESTED

Claimant requested \$42,500.00 in damages; pre-award interest in the amount of \$3,331.35; punitive damages; and the costs and expenses of this arbitration including \$2,500.00 in attorney's fees.

Respondents did not make any requests.

**OTHER ISSUES CONSIDERED & DECIDED**

Claimant requested that Claimant and Claimant's counsel be allowed to appear at the hearing via telephone conference call due to Claimant's difficulty in attending an in-person hearing and the expense of the appearance for Claimant and Claimant's counsel when none of the Respondents have submitted Answers or appeared. Upon review of the file and the pleadings submitted, the panel granted the request.

The party in attendance 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 party 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 and post hearing submissions, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. That Respondents Beacon Securities, Inc., Gary L. Donahue and Gus Goldman perpetrated a fraud against Claimant and are jointly and severally liable to and shall pay to Claimant the sum of \$42,500 plus \$3,331.35 in pre-award interest.
2. That Respondents Beacon Securities, Inc., Gary L. Donahue and Gus Goldman perpetrated a fraud against Claimant and are jointly and severally liable for Claimant's attorney's fees in the amount of \$2,500.00
3. That the claim for punitive damages is denied.
4. Each party shall pay its own expenses unless specifically addressed herein.
5. Any and all relief not specifically addressed herein is denied.

**FORUM FEES**

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

1 session x \$400.00 = \$400.00

Forum Fees are assessed against Respondents, jointly and severally. Therefore, Respondents are jointly and severally liable to and shall reimburse Claimant for the \$400.00 hearing session deposit Claimant submitted to the NASD.

**DATE**

**CONCURRING ARBITRATORS' SIGNATURES**

5/31/96

John A. Reelin

Robert C. Devlin, Presiding  
Public Arbitrator

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Benjamin B. Segel  
Public Arbitrator

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Robert A. Greenberg  
Industry Arbitrator

Date Decision Served by NASD:


June 5, 1996

DATE

CONCURRING ARBITRATORS' SIGNATURES

5/25/96

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Robert C. Devlin, Presiding  
Public Arbitrator

  
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