

AWARD

NASD REGULATION, INC.

In the Matter of the Arbitration Between

Name of Claimant

Bernard Kupfershmid

vs.

Case No.

95-05386

Name of Respondents

Gruntal & Co., Inc.
Maurice A. Gross, Jr.

REPRESENTATION

For Claimant, Bernard Kupfershmid ("Claimant") Susan L. Donegan, Esq. located in Boston, Massachusetts.

For Respondents, Gruntal & Co, Inc. ("Gruntal") and Maurice A. Gross, Jr. ("Gross") (collectively "Respondents") Harry D. Frisch, Esq. in-house counsel located in New York, New York.

CASE INFORMATION

Statement of Claim was filed on November 9, 1995.

Claimant's Submission Agreement was signed on August 14, 1995.

Joint Statement of Answer was filed by Respondents on February 5, 1996.

Respondent Gruntal's Submission Agreement was signed on February 5, 1996.

Respondent Gross' Submission Agreement was signed on March 15, 1996.

HEARING INFORMATION

Hearing Dates/Sessions:

August 14, 1996 - 2 Sessions

December 21, 1996 - 2 Sessions

December 3, 1996 - 2 Sessions

Hearing Location: NASD Regulation, Inc., 260 Franklin Street, Boston, MA.

CASE SUMMARY

Claimant states that at the age of fifty (50) years old, he opened an account at Gruntal. Claimant also states that while he was an expert in the field of engineering and international marketing, he was not a sophisticated investor. Claimant further states that he purchased securities for his account based upon his knowledge in his industry, such as Spire Corporation and Moleculon Bio (now Purpac).

Claimant alleges that the unexpected death of his 33 year old son in April, 1991 left him unable to work for four years. Claimant also alleges that his continuing sadness affected his ability to make informed

decisions about his personal and professional life and he began to rely on Respondent Gross' investment recommendations. Claimant further alleges that Gross' recommendations were inconsistent with Claimant's investment history and included purchases of Hills Department Stores and American Exploration stocks with proceeds from the sale of Moleculon stock. Claimant contends that Gross made these recommendations, represented that the price of the stock would increase. Claimant also contends that although he signed an "activity letter" that the transactions in his accounts were unsolicited and that he was fully aware of the frequency, risk factors and profits or losses, he has no memory of signing or reviewing the document. Claimant maintains that Gruntal failed to supervise Gross, that Respondents made unsuitable recommendations, breached their fiduciary duty, breached their contract, were negligent, and made misrepresentation of inside information.

Claimant also maintains that Respondents' actions were in violation of Massachusetts Consumer Protection Law, M.G.L.c.93A, Massachusetts Securities Act (M.G.L.c.110A), the Securities Act of 1933, the Securities Act of 1934 and SEC Rule 10b-5 promulgated thereunder.

Respondents deny the allegations contained in Claimants Statement of Claim, deny liability for any damages he allegedly incurred and assert thirteen affirmative defenses.

Respondents contend that Claimant is a sophisticated investor who purchased securities in the field of his expertise. Respondents also contend that Claimant did not complain about the purchases until 1994. Respondents further contend that Claimant only complained about the losing transactions and not the ones that were profitable. Respondents maintain that Claimant made all investment decision and that Respondents did not control Claimants' account. Respondents also maintain that Claimant authorized, approved, and ratified all transactions.

RELIEF REQUESTED

Claimant requests an award of \$90,278.00 in compensatory damages, with Massachusetts statutory interest, punitive damages, such further relief including attorney's fees and forum fees as deemed just and proper under the circumstances.

Respondents request that the Statement Of Claim be dismissed in its entirety and that all costs associated with this arbitration proceeding be assessed against Claimant.

OTHER ISSUES CONSIDERED & DECIDED

The Award in this matter may be executed in counterpart copies and parties will receive conformed copy 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 arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. All claims asserted by Claimant against Respondents are denied.
2. All other claims for relief are denied.

FORUM FEES

Pursuant to Rule 10332(c) of the *Code of Arbitration Procedure*, the following Forum Fees are assessed equally against both parties.

Non-refundable Filing Fee-	\$ 150.00
Hearing Session Fees-	\$3000.00 (6 sessions @ \$500.00 per session)
Total	<u>\$3,150.00</u>

1. Claimant is assessed \$1,575.00 Claimant previously paid \$650.00 and owes a balance of \$925.00.
2. Respondents are jointly and severally assessed \$1,575.00.

Fees are payable to the NASD Regulation, Inc.

ARBITRATION PANEL

Lucy J. Karl, Esq.	-	Public Chairperson
Mary F. Sprogell	-	Public Panelist
John Hansen, Esq.	-	Industry Panelist

Concurring Arbitrator's Signature

Lucy J. Karl
Lucy J. Karl, Esq.

Date of Decision: January 14, 1997

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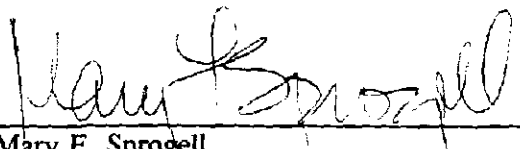
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ARBITRATION PANEL

Lucy J. Karl, Esq.	-	Public Chairperson
Mary F. Sprogell	-	Public Panelist
John Hansen, Esq.	-	Industry Panelist

Concurring Arbitrator's Signature


Mary F. Sprogell

Date of Decision: January 14, 1997

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Lucy J. Karl, Esq.	-	Public Chairperson
Mary F. Sprogell	-	Public Panelist
John Hansen, Esq.	-	Industry Panelist

Concurring Arbitrator's Signature

John Hansen 1-7-97
John Hansen, Esq.

Date of Decision: January 14, 1997