

AWARD

**NASD, Regulation, Inc.,
Office of Dispute Resolution**

In the matter of the Arbitration Between

NASD Regulation, Inc.
No. 95-05798

Alfred K. Bochner, M.D. /

Claimant

vs.

A.S. Goldmen & Company
Thomas M. Walczak
Robert Langsam

Respondent

REPRESENTATION OF PARTIES

For Claimant: James F. Fotenos, Esq., and Simon Y. Leung, Esq.,
Fotenos & Suttle, P.C.,
San Francisco, California

For Respondent A.S. Goldmen & Company and Thomas Walczak:

William M. Moran, Esq.,
Bachner, Tally, Polevoy & Misher, LLP
New York, New York

CASE INFORMATION

Statement of Claim filed: December 11, 1995

First Amended Statement of Claim filed: August 30, 1996

Claimant's Submission Agreement signed: November 22, 1995

Statement of Answer and Cross-Claim against Walczak and Langsam filed by A.S. Goldmen:
August 13, 1996

Statement of Answer filed by Walczak: December 19, 1996

Withdrawal of Cross-Claim against Walczak filed: December 19, 1996

Respondents' Submission Agreements signed:

A.S. Goldmen: August 8, 1996
Thomas Walczak: December 18, 1996

HEARING INFORMATION

The evidentiary hearing was held in San Francisco, California, as follows:

February 11, 1997	-	2 sessions
February 12, 1997	-	2 sessions
February 13, 1997	-	2 sessions

CASE SUMMARY

Claimant alleged breach of fiduciary duty, unauthorized trading, misrepresentation, unsuitability, failure to disclose, failure to supervise, fraud, churning and respondeat superior with respect to Claimant's investments in common stocks. Claimant also alleged abuse of the arbitration process arising out of Respondents' filing in New York Superior Court to stay the claims for punitive damages and attorneys' fees.

Respondents denied the allegations of wrongdoing, and asserted that Claimant authorized and ratified all investments in his account. Respondents also stated that any damages suffered by Claimant were not the result of their actions, but of market forces and/or the conduct of Robert Langsam.

RELIEF REQUESTED

Claimant requested damages of \$286,464.00 (as amended at hearing), interest, punitive damages, plus return of commissions, costs of arbitration and attorney's fees.

Respondents requested dismissal of all claims.

OTHER ISSUES CONSIDERED AND DECIDED

Service was not obtained on Robert Langsam. This award does not pertain to him.

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 originals remain on file with the NASDR.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, and the post-hearing briefs, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. All claims asserted against Thomas M. Walczak are dismissed in their entirety.
2. Respondent A.S. Goldmen is liable for and shall pay to Claimant the sum of \$41,760.00 as damages for all losses and commissions generated on trades made by Robert Langsam.
3. In light of Mastrobuono v. Shearson Lehman Hutton, Inc., 115 S. Ct. 1212 (1995) and PaineWebber, Inc v. Bybyk, 81 F. 3d 1193 (2d Cir. 1996), Respondent A.S. Goldmen is liable for and shall pay to Claimant the sum of \$5840.00 as damages he incurred in the defense of the case of A.S. Goldmen v. Bochner, U.S. District Court, Southern District of New York, No. 96 Civ. 1285 (DAB) and the related New York Superior Court case.
4. All other claims, including the claims for punitive damages, are dismissed in their entirety.
5. The parties shall bear their respective costs, including attorney's fees.

FORUM FEES

Pursuant to Section 10332 of the Code of Arbitration Procedure, the NASDR shall retain Claimant's \$200.00 non-refundable filing fee, but shall refund the \$750.00 hearing session deposit.

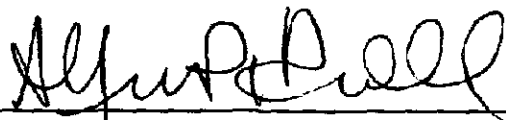
Respondent A.S. Goldmen is assessed all forum fees:

6 hearing sessions @ \$750/session	\$ 4500.00
Credit for deposit	\$ <u>750.00</u>
Balance due to NASDR	\$ <u>3750.00</u>

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

Concurring Arbitrators Signatures:

Date signed:



Alfred H. Knoll
Presiding Chairperson
Public Arbitrator

(concurring in all aspects of the award except paragraph #3)

2/28/97

Margaret Kallman
Public Arbitrator

Philbrick Bowhay
Securities Industry Arbitrator

Date served: 3/11/97

Concurring Arbitrators Signatures:

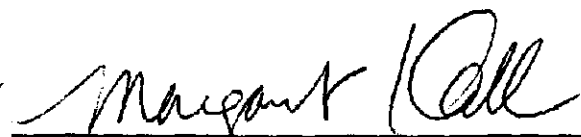
Date signed:

Alfred P. Knoll

Presiding Chairperson

Public Arbitrator

(concurring in all aspects of the award except paragraph #3)



Margaret Kallman

Public Arbitrator

February 28, 1997

Philbrick Bowhay

Securities Industry Arbitrator

Date served: 3/11/97

Concurring Arbitrators Signatures:

Date signed:

Alfred P. Knoll

Presiding Chairperson

Public Arbitrator

(concurring in all aspects of the award except paragraph #3)

Margaret Kallman

Public Arbitrator



Philbrick Bowhay

Securities Industry Arbitrator

Feb 27, 1997

Date served: 3/11/97