

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Aubrey W. Reece TTEE/Aubrey W. Reece Trs

96-01781

Name of Respondent

A.S. Goldmen & Company, Inc.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on April 25, 1996, claimant Aubrey W. Reece as Trustee for the Aubrey W. Reece Trust ("claimant") alleged that respondent A.S. Goldmen & Company, Inc. failed to execute his instructions to sell a stock. Claimant further alleged that on February 2, 1996, he informed respondent in writing to sell 1000 shares of Winfield Capital Corp. ("WCAP") at \$10.00 per share. Claimant also alleged that the order was not followed and that he eventually sold the shares for \$7.00 per share. Claimant contended that he was at the mercy of respondent concerning the price of the stock because the St. Petersburg Times does not provide the price of this stock. Claimant further contended that as a result of the above, he has suffered a loss for which the respondent should be held liable.

Respondent A.S. Goldmen & Co., Inc. who appeared through Carol Bernstein, Esq., a sole practitioner, located in Norwalk, Connecticut, maintained that claimant is in no way an unsophisticated investor--as he would like the panel to believe--inasmuch as 1) he admits to having at least one other brokerage account; 2) admits to having invested in the stock market in excess of ten years prior to opening an account with it; 3) claimant admitted to knowing he was investing in a speculative stock; 4) claimant followed almost on a daily basis the activity of his investments. Respondent further maintained that claimant attempted to place a stop loss order but that it does not accept such orders and claimant was so informed. Respondent also maintained that since claimant did not receive a confirmation for the entry of the stop loss order, he was on notice that no such order had been accepted by it. Respondent contended that claimant's monthly statements did not list the stop loss order and that the value of WCAP was below \$10.00 per share on his February account statement. Respondent further contended that claimant monitored that value of the stock and should have notified it concerning the alleged failure to sell and that as a result of the above, it should not be held liable.

RELIEF REQUESTED

Claimant Aubrey W. Reece as Trustee for the Aubrey W. Reece Trust requested \$2,850.00 in actual damages.

Respondent A.S. Goldmen & Co., Inc. requested that it be reimbursed for costs.

OTHER ISSUES CONSIDERED AND DECIDED

The arbitrator considered and reviewed respondent's request that claimant produce documentation. The arbitrator denied the request.

The arbitrator considered and reviewed respondent's Motion to Strike the Statement of Claim for claimant's failure to comply with the its discovery request. The arbitrator denied the request.

AWARD

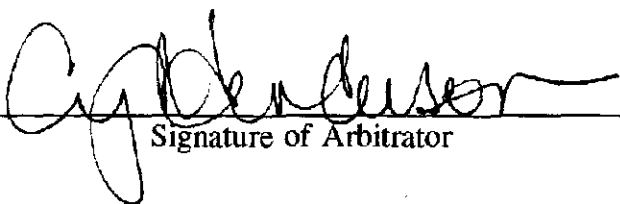
Pursuant to Section 10302 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Cynthia A. Henderson, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the claimant on May 6, 1996, and by respondent on July 25, 1996.

And, the Arbitrator, having considered the proof of the parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondent A.S. Goldmen & Co., Inc. is liable and shall pay to the claimant Aubrey W. Reece as Trustee for the Aubrey W. Reece Trust \$667.50 in actual damages.
2. The parties shall bear their respective costs and attorneys fees.
3. The \$125.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc. Respondent A.S. Goldmen & Co., Inc. is liable and shall pay to the claimant Aubrey W. Reece as Trustee for the Aubrey W. Reece Trust \$62.50 as reimbursement of the filing fee.
4. All other relief requests are denied.

AFFIRMATION

I, Cynthia A. Henderson, Esq., do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.



Signature of Arbitrator

DATE OF DECISION: December 19, 1996