

## NASD REGULATION, INC. AWARD

In the Matter of the Arbitration Between

### Names of Claimants

Robert A. Goldman  
Barbara Goldman

96-01836

### Name of Respondent

Equitable Life Assurance Society of U.S.

### REPRESENTATION

For Claimants Robert A. Goldman ("Goldman") and Barbara Goldman (collectively referred to as "Claimants") appeared Neal Brickman, Esq., a private practitioner with offices located in New York, New York.

For Respondent Equitable Life Assurance Society of U.S. ("Equitable") appeared Larry H. Krantz, Esq., a private practitioner located in New York, New York.

### CASE INFORMATION

Claimants' Statement of Claim was filed on April 26, 1996. Claimants' Submission Agreement was signed on April 22, 1996.

A Statement of Answer was filed by Respondent on June 27, 1996. Respondent's Submission Agreement was signed on June 27, 1996.

A Court Order to Compel arbitration of all claims was issued by the Supreme Court of the State of New York on March 5, 1996.

### HEARING INFORMATION

Hearing Dates/Sessions:	July 10, 1997	-	One Session
	November 20, 1997	-	Two Sessions
	November 21, 1997	-	Two Sessions
	November 24, 1997	-	Two Sessions
	November 25, 1997	-	Two Sessions
	February 3, 1998	-	Two Sessions
	February 4, 1998	-	Three Sessions
	February 24, 1998	-	One Session

The hearing was conducted at the offices of NASD Regulation, Inc. located in New York, New York.

### **CASE SUMMARY**

Goldman alleged that he was employed by Equitable from 1982 until July 1994, during which time he generated enormous revenue for Equitable. Goldman also alleged that although Equitable periodically received complaints from its customers about him, Equitable made no determination that he had done anything improper or wrong. Goldman further alleged that, on or about July 15, 1994, he secured a job with New York Life Insurance Company ("NYLIC") and signed an Agent's contract with it effective July 28, 1994. Goldman contended that, when according to normal practice within the industry, NYLIC contacted Equitable to ascertain his employment history, Equitable forwarded to NYLIC only a portion of his complaint file, and neglected to include his written response to each complaint and the determinations it had made dismissing and/or denying certain of these complaints. Goldman further contended that, as a direct and proximate result of Equitable's forwarding only selected and unfavorable portions of his employment profile to NYLIC, NYLIC decided to terminate his employment effective December 15, 1994.

Goldman asserted that Equitable tortiously, unlawfully and maliciously interfered with his contract and interfered with his prospective economic relations. Goldman also asserted that Equitable, its authorized agents and/or employees maliciously published defamatory words to third parties, including potential employers, and intentionally set out to cast him in a false and unfavorable light. Goldman further asserted that Equitable engaged in the aforesaid conduct for the sole purpose of harassing and vexing Goldman and causing him to suffer humiliation and emotional distress. Barbara Goldman maintained that, as a result of the inquiries to her spouse, she was deprived, and will in the future be deprived, of the companionship, society, guidance, material services and consortium of her spouse.

Equitable maintained that, in July 1994, it terminated Goldman due to a long and serious pattern of sales practice abuses. Equitable also maintained that a total of 68 of its customers complained about the improper sales practices of Goldman. Equitable further maintained that its customers have alleged, and in most cases they have found, that Goldman engaged in fraud ranging from selling an "investment plan" without disclosing that it was an insurance policy, to replacing insurance policies without the knowledge and consent of the policyowner. Equitable alleged that it found that most customer complaints against Goldman were justified because of his sales practice improprieties and offered the majority of customers some form of relief. Equitable also alleged that it was truthful in its reporting that Goldman was the subject of numerous verified customer complaints and was first suspended and subsequently terminated for improper sales practice activities.

### **RELIEF REQUESTED**

Claimants requested an award of not less than \$4,500,000.00 in compensatory damages and not less than \$11,000,00.00 in punitive damages, together with interest, the costs and disbursements of this action, including reasonable attorneys' fees, and such other and further relief as the arbitrators deemed just and proper.

### OTHER ISSUES CONSIDERED & DECIDED

The parties have 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 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. Equitable is hereby liable and shall pay to Robert A. Goldman the sum of \$1.00 (one dollar) in compensatory damages.
2. Equitable is hereby liable and shall pay to Barbara Goldman the sum of \$100,000.00 in compensatory damages.
3. Claimants' request for punitive damages is hereby denied.
4. Each party shall bear its respective costs, including attorneys' fees, except that Equitable is hereby liable and shall pay to Claimants the sum of \$1,500.00 to reimburse Claimants for the hearing session deposit paid to NASD Regulation, Inc.
5. All other requests for relief are hereby denied.

### FORUM FEES

Pursuant to Rule 10205(c) of the Code of Arbitration Procedure, the arbitrators have determined that NASD Regulation, Inc. shall retain the \$500.00 non-refundable filing fee previously submitted by Claimants, and the \$500.00 non-refundable member surcharge previously submitted by Equitable, and have assessed the following forum fees:

$$15 \text{ Hearing sessions} \times \$1,500.00 = \$22,500.00$$

Equitable is liable for the sum of \$22,500.00, representing the total amount of forum fees assessed. Claimants previously deposited \$1,500.00 with NASD Regulation, Inc., therefore, Equitable shall pay the balance of \$21,000.00 to NASD Regulation, Inc. and \$1,500.00 to Claimants as provided in the "Award" section above.

Fees are payable to NASD Regulation, Inc.

Arbitrators' Signatures



\_\_\_\_\_  
Robert Pincus, Esq.  
Chairperson - Public Arbitrator

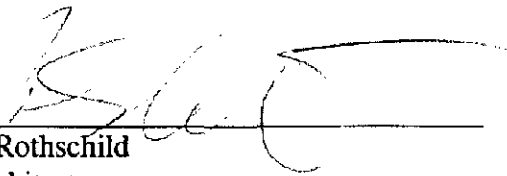
I, **Robert Pincus, Esq.**, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.



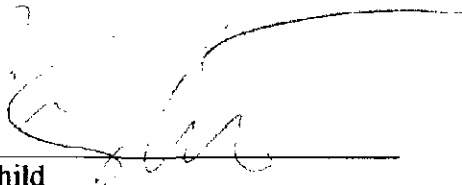
\_\_\_\_\_  
Robert Pincus, Esq.

Date of decision: April 1, 1998

Arbitrators' Signatures


  
\_\_\_\_\_  
John E. Rothschild  
Public Arbitrator

I, **John E. Rothschild**, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

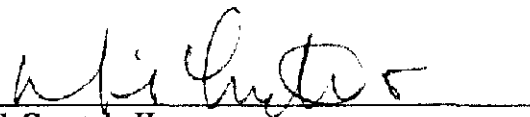
  
\_\_\_\_\_  
John E. Rothschild

Date of decision: April 1, 1998

Arbitrators' Signatures

  
David Crystal, II  
Industry Arbitrator

I, **David Crystal, II**, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

  
David Crystal, II

Date of decision: April 1, 1998