

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Richard V. Dutchik

96-02207

Name of Respondents

A.S. Goldmen & Company, Inc.

Names of Third Party Respondents

Richard Madison  
Joseph Piscopo

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REPRESENTATION

For Claimant: Thomas R. Townsend, Jr., Esq., Rockledge, Florida.

For Respondent A.S. Goldmen & Company, Inc. ("Goldmen"): Carole R. Bernstein, Esq., Norwalk, Connecticut.

Third-Party Respondents Richard Madison ("Madison") and Joseph Piscopo ("Piscopo") appeared pro se.

CASE INFORMATION

Statement of Claim filed: May 23, 1996.

Claimant's Submission Agreement signed on: May 21, 1996.

Claimant's Reply to Affirmative Defenses dated August 7, 1996.

Statement of Answer filed by Respondent Goldmen on: August 22, 1996.

Respondent's Amended Statement of Answer and Third Party Claim dated September 9, 1996.

Addendum to Goldmen's Amended Answer and Third Party Claim filed on: October 30, 1997.

Respondent Goldmen's Submission Agreement signed on: July 25, 1996.

Third Party Respondents Madison and Piscopo did not file Statements of Answer or executed Submission Agreements.

## **HEARING INFORMATION**

One telephonic pre-hearing conference was conducted with the arbitration panel on September 12, 1997 and two sessions were conducted on November 4, 1997 in Tampa, Florida.

## **CASE SUMMARY**

Claimant alleged that Respondent executed unauthorized transactions in his account in shares of stock in a new issue called Sports Media, Inc. and thereafter made misrepresentations to the Claimant concerning the value of said shares. Claimant asserted allegations of conversion, common law fraud, breach of fiduciary duty and violation of Chapter 517, Florida Statutes.

Respondent Goldmen denied each and every allegation contained in the Statement of Claim that asserted that it engaged in any wrongdoing and/or is in any way accountable for any losses that the Claimant claimed to have incurred. Respondent Goldmen further maintained that Claimant is a savvy investor who authorized and directed the execution of all transactions in his account and any losses suffered by the Claimant were the result of market conditions and/or fluctuations normally associated with investments in the securities markets.

Respondent Goldmen asserted third party claims against its former registered representatives, Madison and Piscopo, alleging that in the event Claimant recovers judgment against Goldmen on any or all of the claims asserted in the Statement of Claim, then Madison and/or Piscopo are liable to Goldmen for the full amount of such award.

Third Party Respondents denied the allegations asserted against them in the third party claim.

## **RELIEF REQUESTED**

Claimant requested compensatory damages in the sum of \$5,875.00; treble/punitive damages in the sum of \$17,625.00 or such higher amount as may be appropriate to punish the Respondent; and, attorneys' fees.

Respondent Goldmen requested a determination denying Claimant's claims as against it, awarding it costs and disbursements, including reasonable attorneys' fees incurred by Goldmen as a result of this proceeding. Alternatively, Goldmen requested that in the event an award is entered against Goldmen, Goldmen seeks the full amount of such judgment against Madison and/or Piscopo.

Third Party Respondents Madison and Piscopo requested a dismissal of all claims asserted against them by Goldmen.

## **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(s) remain on file with NASD Regulation, Inc.

## **AWARD**

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

1. The Respondent Goldmen is liable and shall pay to the Claimant the sum of \$5,500.00, pre-judgment interest specifically excluded.
2. Third Party Respondent Piscopo is liable and shall reimburse to Respondent Goldmen the sum of \$2,750.00, pre-judgment interest specifically excluded.
3. All claims against Third Party Respondent Madison are dismissed in their entirety.
4. The Claimant's request for treble/punitive damages is denied.
5. The parties' requests for attorneys' fees are referred to a court of competent jurisdiction for a determination of the entitlement to and amount, if any, of attorneys' fees to be awarded. If attorneys' fees are awarded to the Claimant from the Respondent, Third Party Respondent Piscopo shall reimburse to Respondent Goldmen one-half of any amount awarded to the Claimant.
6. The Respondent Goldmen shall pay to the Claimant the sum of \$400.00 representing reimbursement of the hearing session deposit paid by the Claimant to NASD Regulation, Inc.
7. Third Party Respondent Piscopo shall pay to the Respondent Goldmen the sum of \$200.00 representing reimbursement of one-half of the hearing session deposit.

#### FORUM FEES

Pursuant to Section 10332 of the Code of Arbitration Procedure, forum fees in the sum of \$1,800.00 (two sessions x \$600.00 plus one pre-hearing conference-panel \$600.00) are assessed as follows:

Respondent Goldmen is assessed the sum of \$900.00 less the \$500.00 on deposit in partial satisfaction thereof leaving a balance due of \$400.00.

Third Party Respondent Piscopo is assessed the sum of \$900.00.

Respondent Goldmen is assessed the sum of \$200.00 representing the outstanding member surcharge.

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

#### Concurring Arbitrators' Signatures

Name	Public/Industry
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<u>/s/</u> Sheldon L. Barat	Public
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<u>/s/</u> Nicholas John Taldone, Esq.	Public
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<u>/s/</u> J. David Stillman	Industry
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Date of Decision: November 28, 1997