

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Richard Honigman

96-03262

Name of Respondent

A.S. Goldmen & Company, Inc.

CASE SUMMARY

In a case filed with the National Association of Securities Dealers Regulation, Inc. on July 30, 1996, claimant Richard Honigman, who appeared Pro Se, alleged that respondent A.S. Goldmen & Company, Inc. ("Goldmen") did not sell his shares in Winfield Capital Corp. ("WCAP") when he requested them to do so. Claimant further alleged that on June 7, 1996, he contacted Harry Donadelle ("Donadelle") at Goldman to sell his 200 shares of WCAP. Claimant also alleged that he instructed Donadelle to send him the money from his account. Claimant asserted that on June 10, 1996, he called Donadelle to see at what price he sold the shares and found out that he did not sell the shares. Claimant further asserted that the shares were finally sold on June 14, 1996. Claimant submitted copies of his telephone bills.

Respondent A.S. Goldmen & Company, Inc., through its representative and counsel Carole R. Berstein, a sole practitioner located in Norwalk, Connecticut, maintained that claimant never directed anyone at Goldmen to sell his WCAP stock on June 7, 1996. Respondent further maintained that claimant cannot supply a scintilla of evidence regarding his direction to sell WCAP on June 7, 1996. Respondent also maintained that claimant never once attempted to notify anyone at Goldman once he learned his stock was not sold on June 7, 1996. Respondent contended that in its capacity as a market-maker in WCAP, it would have absolutely no reason or motivation not to honor a direction to sell 200 shares of WCAP on that day, had such an order been placed.

RELIEF REQUESTED

Claimant requested \$248.00 based on the difference in stock prices from June 7, 1996 through June 14, 1996, plus \$30.00 in NASD filing fees, and \$400.00 for costs of this proceeding.

Respondent Goldman requested that the claims of claimant be dismissed in their entirety, plus costs.

OTHER ISSUES CONSIDERED & DECIDED

The arbitrator reviewed and considered all submissions regarding respondent's motion to dismiss. The Arbitrator denied the motion.

AWARD

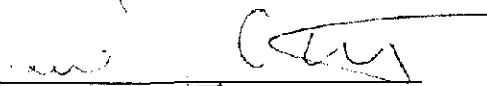
Pursuant to Section 10302 of the Code of Arbitration Procedure, a single Public Arbitrator, Paul Contillo, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the claimant Richard Honigman on July 29, 1996 and by respondent A.S. Goldmen & Company, Inc. on October 11, 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 & Company, Inc. be and hereby is liable and shall pay claimant Richard Honigman \$248.00 in actual damages.
2. All other relief requests are denied.
3. The \$30.00 filing fee previously deposited by claimant shall be retained by the NASD Regulation, Inc. Respondent A.S. Goldmen & Company, Inc. be and hereby is liable and shall pay claimant Richard Honigman the sum of \$30.00 as reimbursement of the filing fee.

AFFIRMATION

I, **Paul Contillo**, do hereby affirm upon my oath as arbitrator that I am the individual described therein and who executed this instrument, which is my oath and award.



Paul J. Contillo

Date of Decision: January 31, 1997