

## **AWARD**

NASD Regulation, Inc. Office of Dispute Resolution

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In the Matter of the Arbitration Between

Laslaw Rogalski and  
Wanda R. Rogalski

Claimants,

v.

No. 96-05683

Gilford Securities Incorporated and  
Pawel Mosakowski.

Respondents.

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### **REPRESENTATION OF PARTIES**

Claimants Laslaw and Wanda Rogalski ("Claimants") were represented by Thomas P. Ward, Esq. of McBride, Baker & Coles located in Chicago, Illinois.

Respondent Gilford Securities Incorporated ("Gilford") was represented by Joel Levinson, Esq., General Counsel for Gilford Securities Incorporated located in New York, New York.

Respondent Pawel T. Mosakowski ("Mosakowski") was represented by Joseph F. Keenan, Esq. located in New York, New York.

### **CASE INFORMATION**

The Statement of Claim was filed on or about December 24, 1996.  
Claimants' Submission Agreement was signed on or about December 18, 1996.

Respondent Gilford's Statement of Answer was received on or about March 17, 1997.

Respondent Mosakowski's Statement of Answer was received on or about March 31, 1997.  
Respondent Mosakowski's Uniform Submission Agreement was signed on or about April 14, 1997.

### **HEARING INFORMATION**

A Discovery PreHearing Conference was held on February 24, 1999.

The hearing was held on May 19, 1999 for three sessions.

### **CASE SUMMARY**

Claimants first opened securities accounts with Respondent Mosakowski while he was employed by A.J. Michaels & Co. Inc. The accounts were subsequently transferred to Respondent Gilford when Respondent Mosakowski joined that firm. The Claimants contended that Respondent Mosakowski, acting as an agent for Gilford Securities, engaged in misrepresentation and omission of facts with the purpose of inducing Claimant to invest in World Marketing Shares of Illinois, Inc. Claimants alleged that World Marketing counterfeited American brand cigarettes and sold them in the Asian market.

Respondent Mosakowski specifically and generally denied all allegations of wrongdoing alleged in the Statement of Claim. Respondent Mosakowski alleged that the Claimants' losses were due to their own investment decisions.

Respondent Gilford denied all of the allegations made by Claimants in the Statement of Claim.

### **RELIEF REQUESTED**

Claimants requested \$100,000.00 in compensatory damages, \$300,000.00 in punitive damages, and that interests and costs to be held jointly and severally against Respondent Gilford and Mosakowski.

Respondent Gilford requested that the claims asserted against it be denied in their entirety.

Respondent Mosakowski requested that the claims asserted against him be denied in their entirety and that he be awarded costs, expenses, and attorneys' fees.

### **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 originals remain on file with NASD Regulation, Inc. Office of Dispute Resolution.

Respondent Gilford did not file with the NASD Regulation, Inc. Office of Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to Rule 10301 of the NASD Code of Arbitration Procedure (the "Code") and having answered the claim, appeared and testified at the hearing is bound by the determination of the arbitration panel on all issues submitted.

### **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) Respondent Pawel Mosakowski shall be and hereby is severally liable for and shall pay to Claimants Laslaw and Wanda R. Rogalski the sum of \$35,000.00 as compensatory damages;
- (2) Respondent Gilford Securities Incorporated shall be and hereby is severally liable for and shall pay to Claimants Laslaw and Wanda R. Rogalski the sum of \$10,000.00 as compensatory damages;
- (3) Claimants' request for punitive damages is denied; and
- (4) Claimants' requests for interest and costs are denied.

### **FORUM FEES**

Forum fees are calculated at the rate of \$750.00 per hearing session and \$300.00 for each pre-hearing conference. There were three (3) hearing sessions x \$750.00 = \$2,250.00 in forum fees.

There was one (1) pre-hearing conference x \$300.00. Total forum fees = \$2,550.00. Pursuant to Rule 10332(b) of the Code, a hearing session is any meeting between the parties and the full panel, including pre-hearing telephone conferences with the arbitrators, which last four (4) hours or less. The panel has determined that the three (3) parties to this arbitration will split the forum fees equally. Each is responsible for  $(\$2,550.00/3)=\$850.00$ .

Pursuant to Rule 10332(c) of the Code, NASD Regulation, Inc. Office of Dispute Resolution shall retain the non-refundable filing fee in the amount of \$200.00 and shall retain the \$750.00 hearing session deposit previously deposited by the Claimant. Claimant will be invoiced the remaining \$100.00 of the forum fees.

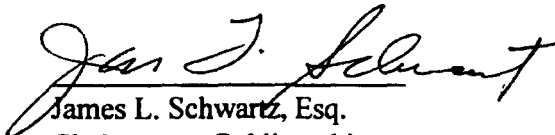
Pursuant to Rule 10332(c) of the Code, Respondent Gilford is assessed \$850.00 (1/3 forum fees) and Respondent Mosakowski is assessed \$850.00 (1/3 forum fees).

Pursuant to Rule 10333 of the Code, Respondent Gilford Securities shall pay to the NASD the past due member surcharge in the amount of \$350.00 previously invoiced.

The NASD shall retain postponement fees in the amount of \$750.00 previously deposited by Claimants.

**Fees are payable to NASD Regulation, Inc. Office of Dispute Resolution.**

Concurring Arbitrators' Signatures:

  
James L. Schwartz, Esq.  
Chairperson, Public Arbitrator

6-25-99  
Date

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Judd A. Sackheim  
Panelist, Public Arbitrator

\_\_\_\_\_  
Date

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Brian E. Slotky  
Panelist, Industry Arbitrator

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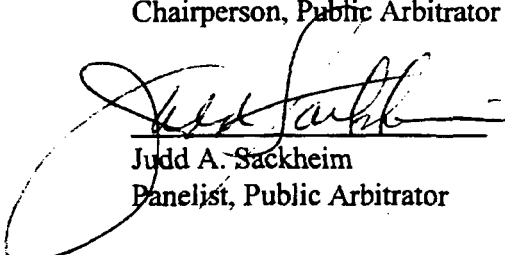
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Judd A. Sackheim  
Panelist, Public Arbitrator

6-24-99  
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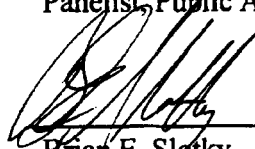
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