

**Award**  
**NASD Regulation, Inc.**

---

In the Matter of the Arbitration Between:

Raymond Lundgren and Kay T. Lundgren (Claimants) vs. A.S. Goldmen & Co., Inc., Joseph Piscopo, Rick Madison, Charles Principato, et al. (Respondents)

Case Number: 97-06040

Hearing Site: San Francisco, California.

---

**REPRESENTATION OF PARTIES**

Raymond Lundgren and Kay T. Lundgren hereinafter collectively referred to as "Claimants":  
David W. Studley, Esq., San Andreas, California.

A.S. Goldmen & Co., Inc. ("ASG") and Anthony Marchiano: Glenn A. Duhl, Esq., Siegel  
O'Connor Schiff & Zangari, Hartford, Connecticut.

Joseph Piscopo, John Robert Piscopo, and Charles Principato: David B. Gorfinkel, Esq.,  
Sichenzia Ross & Friedman, New York, New York.

Michael Paul Cilmi: Lawrence Morizio, Esq., Bell Investment Group, New York, New York

Salvatore Marchiano: Charles D. Abercrombie, Esq., New York, New York.

Rick Madison, Marco Carucci, Curtis Dunn, Stuart Winkler, and Stephen Howard Kaplan  
represented themselves.

**CASE INFORMATION**

Statement of Claim filed on or about: December 24, 1997.

Claimants signed the Uniform Submission Agreement: December 16, 1997.

The Statement of Answer for A.S. Goldmen & Co., Inc. and Cross Claim against Marco Carucci  
was filed on or about: February 26, 1998.

Claimants' First Amended Statement of Claim filed on or about: January 31, 1999.

A.S. Goldmen & Co., Inc. executed the Uniform Submission Agreement: March 23, 1998.

The Joint Statement of Answer for Joseph Piscopo and Charles Principato was filed on or about:  
February 27, 1998.

Joseph Piscopo signed the Uniform Submission Agreement: August 31, 1998.

Charles Principato signed the Uniform Submission Agreement: August 31, 1998.

Marco Carucci's Statement of Answer was filed on or about: February 11, 1998.

Marco Carucci signed the Uniform Submission Agreement: February 11, 1998.

Marco Carucci's Answer to Cross Claim was filed on or about: June 12, 1998.

Stephen Kaplan's Answer was filed on or about: March 15, 1999.

The Joint Statement of Answer for Joseph Piscopo and Charles Principato to the First Amended Statement of Claim was filed on or about: April 19, 1999.

John Piscopo's Answer to the First Amended Statement of Claim was filed on or about: February 29, 2000.

Anthony Marchiano's Answer to the First Amended Statement of Claim was filed on or about: September 3, 1999.

Salvatore Marchiano's Answer to the First Amended Statement of Claim was filed on or about: March 1, 2000.

Stuart Winkler's Answer was filed on or about: March 8, 2000.

### **CASE SUMMARY**

Claimants asserted the following causes of action: breach of fiduciary duty; fraud; fiduciary abuse of the elderly; failure to supervise; control person / respondeat superior liability; breach of contract; churning; and intentional infliction of emotional distress.

The following Respondents filed Answers in this matter: A.S. Goldmen & Co., Inc., Marco Carucci, Joseph Piscopo, Charles Principato, Stephen Kaplan, Michael Cilmi, Anthony Marchiano, Salvatore Marchiano, John Piscopo and Stuart Winkler.

In general, the answering respondents denied the allegations asserted in the Statement of Claim and the First Amended Statement of Claim. Affirmative defenses included but were not limited to: Claimants' claims are barred by all applicable statutes of limitations; Claimants were sophisticated investors who assumed the risks of investing in the market; Claimants authorized and directed all transactions in their account and are estopped from bringing this action.

A.S. Goldmen & Co., Inc. asserted an indemnification action against Marco Carucci. Marco Carucci denied the allegations made in the Cross Claim.

### **RELIEF REQUESTED**

Claimants requested:

Compensatory Damages	\$232,608.03
Punitive Damages	Unspecified.
Emotional Distress damages	Unspecified.
Attorneys' Fees, Expert Witness Fees & Costs	\$67,185.39
Interest	\$80,698.23

Respondent A.S. Goldmen & Co., Inc. requested in its Cross Claim against Marco Carucci:  
Indemnification on any amount awarded the Claimants      Unspecified.

For their defense of the allegations in the Statement of Claim and the First Amended Statement

of Claim A.S. Goldmen & Co., Inc. requested:

Attorneys' Fees

Unspecified.

Other Costs

Unspecified.

### **OTHER ISSUES CONSIDERED AND DECIDED**

Upon review of the file and the representations made by/on behalf of the Claimants, the undersigned arbitrators determined that Stephen Kaplan, Michael Cilmi, Anthony Marchiano, Salvatore Marchiano, Rick Madison, Curtis Dunn and Stuart Winkler were properly served with the Statement of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without said Respondents present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

Joseph Donahue was named as a party in the First Amended Statement of Claim. The NASD was unable to locate and serve Mr. Donahue in this action. He is therefore not included in the decision below.

Joseph Piscopo, John Robert Piscopo, Charles Principato, Michael Paul Cilmi, Salvatore Marchiano, Rick Madison, Marco Carucci, Curtis Dunn, Stuart Winkler, and Stephen Howard Kaplan are required to submit to arbitration pursuant to the Code and are bound by the determination of the Panel on all issues submitted:

Prior to the hearing the NASD was informed, in a letter dated April 18, 2000, that the Claimants settled their claims with John Piscopo, Joseph Piscopo and Charles Principato. The letter dismissed all claims as to John Piscopo and Joseph Piscopo with prejudice and reserved rights to seek restitution against Mr. Principato in other proceedings against him.

Salvatore Marchiano settled with the Claimants and was dismissed with prejudice prior to the hearing.

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.

### **AWARD**

After considering the pleadings, the testimony and evidence presented at the hearing, and the argument of counsel, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. The Claimants are awarded and Respondent A.S. Goldmen & Co., Inc., solely, shall pay to Claimants the sum of \$65,000;

2. The Claimants are awarded and Respondent A.S. Goldmen & Co., Inc., solely, shall pay to Claimants expert witness expenses in the sum of \$5000;
3. This award is based on the Panel's assessment of damages suffered by Claimants as a result of the breach, or breaches, of the duty of care owed by A.S. Goldmen & Co., Inc. to Claimants;
4. All other claims asserted in the in the Statement of Claim and the First Amended Statement of Claim are dismissed;
5. Claimants' requests for punitive damages, attorneys' fees and interest are denied;
6. All claims asserted in the A.S. Goldmen & Co., Inc. cross claim are dismissed;
7. Except as otherwise stated in the award, each party shall bear their own costs and expenses, including attorneys' fees.

#### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

NASD Regulation, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee (Claimants)	= \$200
Counter-claim filing fee (ASG)	= \$500

#### **Member Fees**

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter A.S. Goldmen & Co., Inc., the member firm, is a party.

Member surcharge	= \$1,500
------------------	-----------

#### **Adjournment Fees**

Adjournments requested during these proceedings:

The Claimants requested an adjournment of the March 22, 1999 hearing. The panel waived the \$750 adjournment fee.

#### **Forum Fees and Assessments**

The Panel assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

Three (3) Pre-hearing session(s) with a single arbitrator x \$300 = \$ 900

Pre-hearing conference(s):   October 29, 1998    1 session;  
                                     February 3, 1999     1 session;  
                                     March 1, 2000       1 session;

Four (4) Pre-hearing session(s) with Panel x \$750 = \$3,000

Pre-hearing conference(s):   July 31, 1998       1 session;  
                                     February 19, 1999   1 session;  
                                     September 28, 1999 1 session;  
                                     October 20, 1999    1 session;

Eight (8) Hearing sessions x \$750 = \$6,000

Hearing Date(s):           April 25, 2000       3 sessions;  
                                     April 26, 2000       3 sessions;  
                                     April 27, 2000       2 sessions.

---

Total Forum Fees = \$9,900

The Panel has assessed all forum fees to A.S. Goldmen & Company, Inc.

### Fee Summary

1. Claimants are solely liable for:

Initial Filing Fee	= \$200
<u>Adjournment Fee (\$750 waived by panel)</u>	= \$ 0
Total Fees	= \$200
<u>Less payments</u>	= \$950
Balance <Refund>	= <\$750>

2. Respondent A.S. Goldmen & Co., Inc. is solely liable for:

Cross Claim Filing Fee	= \$ 500
Member Fees	= \$ 1,500
<u>Forum Fees</u>	= \$ 9,900
Total Fees	= \$11,900
<u>Less payments</u>	= \$ 2,750
Balance Due NASD Regulation, Inc.	= \$ 9,150

All balances are due and payable to NASD Regulation, Inc.

NASD Regulation, Inc. Office of Dispute Resolution  
Arbitration No. 97-06040  
Award Page 6 of 6


**Concurring Arbitrators' Signature(s)**

\_\_\_\_\_  
Bruce W. Belding  
Public Arbitrator, Presiding Chair

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Gerald E. Azubinder  
Public Arbitrator

\_\_\_\_\_  
Signature Date

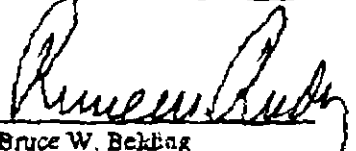
  
\_\_\_\_\_  
Frank Weaver, Esq.  
Industry Arbitrator

  
\_\_\_\_\_  
Signature Date

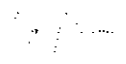
Date Served:  
JUN 14 2000

NASD Regulation, Inc. Office of Dispute Resolution  
Arbitration No. 97-06040  
Award Page 6 of 6

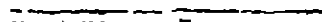
Concurring Arbitrators' Signature(s)

  
Bruce W. Belding  
Public Arbitrator, Presiding Chair

June 9, 2000  
Signature Date

  
Gerald E. Ambinder  
Public Arbitrator

                      
Signature Date

  
Frank Weaver Esq.  
Industry Arbitrator

                      
Signature Date

Date Served:

**JUN 14 2000**

**Concurring Arbitrators' Signature(s)**

Bruce W. Belding  
Public Arbitrator, Presiding Chair

Signature Date



Gerald E. Ambinder

JUN 12 2000

Signature Date

Frank Weaver, Esq.  
Industry Arbitrator

Signature Date

Date Served:

JUN 14 2000