

**Award**  
**NASD Dispute Resolution, Inc.**

---

*In the Matter of the Arbitration Between:*

*Anthony Tsocanos, (Claimant) vs. Gilford Securities, Inc., (Respondent)*

Case Number: 99-05046

Hearing Site: New York, New York

---

**REPRESENTATION OF PARTIES**

Claimant, Anthony Tsocanos, hereinafter referred to as "Claimant": George J. Calcagnini, Esq., a sole practitioner, Mount Kisco, NY.

Respondent, Gilford Securities, Inc., hereinafter referred to as "Respondent": Norman S. Lawi, Esq., Special Counsel, Gilford Securities, Inc., New York, NY.

**CASE INFORMATION**

Statement of Claim filed on or about: November 5, 1999.

Opposition to the Motion to Dismiss filed by Claimant on or about: February 1, 2000.

Claimant signed the Uniform Submission Agreement: November 5, 1999.

Statement of Answer and Motion to Dismiss filed by Respondent on or about: January 10, 2000.

Respondent signed the Uniform Submission Agreement: January 10, 2000.

**CASE SUMMARY**

Claimant asserted the following causes of action: failure to transfer Claimant's account in a timely manner; negligence; violation of fiduciary duty; and breach of contract. Claimant's claim involved unspecified financial products.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses: Claimant is barred from recovery because he failed to exercise reasonable or ordinary care, caution, and prudence with respect to the matters alleged in the Statement of Claim; Claimant's claims are barred under the theories of primary negligence and contributory negligence; Claimant's claims are barred under the theories of waiver and consent, ratification, and the "clean hands doctrine"; Claimant's claims are barred under the theory of mitigation of damages; and Claimant has not met his burdens of proof and, therefore, no causes of action have been established.

### **RELIEF REQUESTED**

Claimant requested compensatory damages in the amount of \$89,506.25, with interest thereon from April 26, 1999, plus costs, disbursements, and reasonable attorneys' fees.

Respondent requested that the Panel:

- a. Grant Respondent's Motion to Dismiss in its entirety and impose costs, expenses, and interest upon Claimant as a penalty for capriciously naming Gilford in this arbitration;
- b. In the alternative, dismiss all claims in their entirety as against Gilford and impose costs, expenses, and interest upon Claimant as a penalty for capriciously naming Gilford in this arbitration; and
- c. Award Respondent such other relief as the Panel deems just and proper under the circumstances.

### **OTHER ISSUES CONSIDERED AND 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.

### **AWARD**

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

1. Claimant's claims are hereby dismissed in their entirety.
2. Respondent be and hereby is liable for and shall pay to Claimant the sum of \$225.00, to reimburse Claimant for the filing fee previously paid to NASD Dispute Resolution, Inc.
3. All other requests for relief are hereby denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

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

Initial claim filing fee	= \$ 225.00
--------------------------	-------------

#### **Member Fees**

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person at the time of the events giving rise to the dispute. In this matter, Gilford Securities, Inc. is a party.

Member surcharge	= \$1,000.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$1,500.00

#### **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 arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) Pre-hearing sessions with Panel x \$750.00	= \$1,500.00
--	--------------

Pre-hearing conferences:	June 19, 2000	1 session
	September 21, 2000	1 session

Two (2) Hearing sessions x \$750.00	= \$1,500.00
-------------------------------------	--------------

Hearing Date:	May 14, 2001	2 sessions
---------------	--------------	------------

---

Total Forum Fees	= \$3,000.00
------------------	--------------

The Panel has assessed all of the forum fees against Respondent.

**Fee Summary**

1. Claimant be and hereby is solely liable for:

<u>Initial Filing Fee</u>	= \$ 225.00
<u>Total Fees</u>	= \$ 225.00
<u>Less payments</u>	= \$ 975.00
<u>Refund Due Claimant</u>	= \$ 750.00

*As stated in the "Award" section above, Respondent is liable and shall reimburse Claimant for the \$225.00 filing fee.*

2. Respondent be and hereby is solely liable for:

<u>Member Fees</u>	= \$3,100.00
<u>Forum Fees</u>	= \$3,000.00
<u>Total Fees</u>	= \$6,100.00
<u>Less payments</u>	= \$3,100.00
<u>Balance Due NASD Dispute Resolution, Inc.</u>	= \$3,000.00

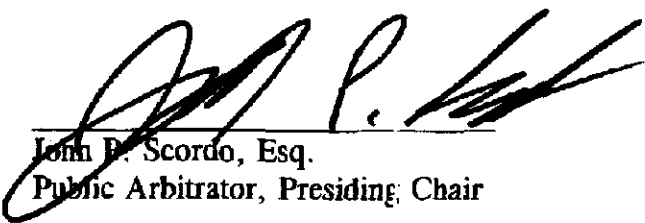
All balances are due and payable to NASD Dispute Resolution, Inc.

**ARBITRATION PANEL**

John P. Scordo, Esq.	-	Public Arbitrator, Presiding Chair
Joanne Barak	-	Public Arbitrator
Henry F. Minnerop, Esq.	-	Industry Arbitrator

**Concurring Arbitrators' Signatures**

I, the undersigned arbitrator, 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 P. Scordo, Esq.  
Public Arbitrator, Presiding Chair

6/2/01  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Joanne Barak  
Public Arbitrator

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

**Dissenting Arbitrator's Signature**

Arbitrator Minnerop dissents with respect to the assessment of the filing and forum fees in this matter. It is the opinion of Arbitrator Minnerop that Claimant should be assessed 25% of the forum fees, and that Respondent should not be liable to reimburse Claimant for the \$225.00 filing fee.

I, the undersigned arbitrator, 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.

\_\_\_\_\_  
Henry F. Minnerop, Esq.  
Industry Arbitrator

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

\_\_\_\_\_  
June 8, 2001

\_\_\_\_\_  
Date of Service (For NASD office use only)

**ARBITRATION PANEL**

John P. Scordo, Esq.	-	Public Arbitrator, Presiding Chair
Joanne Barak	-	Public Arbitrator
Henry F. Minnerop, Esq.	-	Industry Arbitrator

**Concurring Arbitrators' Signatures**

I, the undersigned arbitrator, 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 P. Scordo, Esq.  
Public Arbitrator, Presiding Chair

---

Signature Date

---

*Joanne Barak*  
Joanne Barak  
Public Arbitrator

---

*5-31-01*  
Signature Date

**Dissenting Arbitrator's Signature**

Arbitrator Minnerop dissents with respect to the assessment of the filing and forum fees in this matter. It is the opinion of Arbitrator Minnerop that Claimant should be assessed 25% of the forum fees, and that Respondent should not be liable to reimburse Claimant for the \$225.00 filing fee.

I, the undersigned arbitrator, 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.

---

Henry F. Minnerop, Esq.  
Industry Arbitrator

---

Signature Date

---

June 8, 2001

---

Date of Service (For NASD office use only)

**ARBITRATION PANEL**

John P. Scordo, Esq.	-	Public Arbitrator, Presiding Chair
Joanne Barak	-	Public Arbitrator
Henry F. Minnerop, Esq.	-	Industry Arbitrator

**Concurring Arbitrators' Signatures**

I, the undersigned arbitrator, 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 P. Scordo, Esq.  
Public Arbitrator, Presiding Chair

---

Signature Date

---

Joanne Barak  
Public Arbitrator

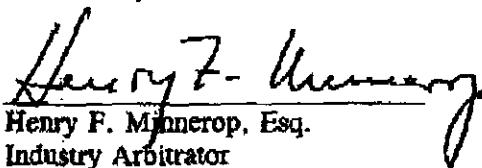
---

Signature Date

**Dissenting Arbitrator's Signature**

Arbitrator Minnerop dissents with respect to the assessment of the filing and forum fees in this matter. It is the opinion of Arbitrator Minnerop that Claimant should be assessed 25% of the forum fees, and that Respondent should not be liable to reimburse Claimant for the \$225.00 filing fee.

I, the undersigned arbitrator, 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.

  
Henry F. Minnerop, Esq.  
Industry Arbitrator

June 8, 2001

  
Signature Date

Date of Service (For NASD office use only)