

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Steven Gross and Carol Gross, (Claimants) v. First Union Securities f/k/a/ Everen Securities and Ronald W. Fox, (Respondents)

Case Number: 00-00524

Hearing Site: Chicago, Illinois

REPRESENTATION OF PARTIES

Claimant Steven Gross and Carol Gross ("Gross"): Richard D. Grossman, Esq., Chicago, Illinois.

Respondent First Union Securities f/k/a/ Everen Securities ("First Union") and Ronald W. Fox ("Fox"), hereinafter collectively referred to as "Respondents": Ronald P. Kane, Esq., Kane & Fischer, Ltd., Chicago, Illinois

CASE INFORMATION

Statement of Claim filed on or about: February 07, 2000

Claimant Gross signed the Uniform Submission Agreement: January 26, 2000

Statement of Answer filed by Respondent First Union on or about: June 26, 2000

Respondent First Union signed the Uniform Submission Agreement: March 20, 2000

CASE SUMMARY

Claimant Steven Gross and Carol Gross asserted the following causes of action: breach of fiduciary duty, violation of the NASD Rules of Fair Practice, Violation of the Consumer Fraud and Deceptive Business Practice Action, unsuitability, misrepresentation, and failure to supervise.

The causes of action relate to the purchase of Brazos Sportswear, Inc. and Geneva Steel, Inc. bonds.

Unless specifically admitted in its Answer, Respondents First Union Securities f/k/a/ Everen Securities and Ronald W. Fox denied the allegations made in the Statement of Claim and asserted the following defenses: failure to state a claim upon which relief may

be granted; laches; waiver; estoppel; ratification; applicable statutes of limitations; obligations to claimants fully satisfied and discharged; assumption of risk; economic, industry, corporate and market conditions responsible for claimants' losses; punitive damages not permitted under applicable law; and lack of knowledge of or reasonable grounds to believe the existence of any facts by reason of which liability is alleged and, cannot be held liable for claims asserted.

RELIEF REQUESTED

Claimant Steven Gross and Carol Gross requested:

Compensatory Damages	\$278,000.00
Interest	not specified
Attorneys' Fees	not specified
Other Costs	not specified
Other Monetary/Non-Monetary Relief if any:	as panel deems just and appropriate.

Respondent First Union Securities f/k/a/ Everen Securities and Ronald W. Fox requested a dismissal with prejudice.

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. Any and all claims asserted by Claimants Steven Gross and Carol Gross against Respondents First Union Securities, f/k/a Everen Securities and Ronald Fox are dismissed with prejudice.
2. Any and all costs are to be borne by the parties incurring the expense.
3. Any and all relief not specifically addressed herein, including punitive damages, is 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	= \$300.00
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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, the member firm is a party.

Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$ 600.00
<u>Hearing process fee</u>	<u>= \$2,500.00</u>
Total Member Fees	= \$4,600.00

Forum Fees and Assessments

The panel has the authority to assess 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:

One (1) Pre-hearing session(s) with Panel x \$1,125.00	= \$1,125.00
Pre-hearing conference: November 17, 2000	1 session
Six (6) Hearing sessions x \$1,125.00	= \$6,750.00
Hearing Date: September 05, 2001	2 sessions
September 06, 2001	2 sessions
September 07, 2001	2 sessions
Total Forum Fees	= \$7,875.00

1. The panel has assessed \$3,937.50 of the forum fees jointly and severally to Claimants Steven and Carol Gross.
2. The panel has assessed \$3,937.00 of the forum fees jointly and severally to Respondents First Union Securities and Ronald W. Fox.

Fee Summary

1. Claimant Steven Gross and Carol Gross are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	<u>= \$3,937.50</u>
Total Fees	= \$4,237.50
<u>Less payments</u>	<u>= \$1,425.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$2,812.50
2. Respondent First Union Securities f/k/a/ Everen Securities is solely liable for:

Member Fees	= \$ 4,600.00
Total Fees	= \$ 4,600.00
<u>Less payments</u>	<u>= \$ 4,600.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

3. Respondents First Union Securities f/k/a/ Everen Securities and Ronald W. Fox are jointly and severally liable for:

Forum Fee	= \$3,937.50
Less payments	= \$1,600.00
Balance Due NASD Dispute Resolution, Inc.	= \$2,337.50

All balances are due to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

Michael S. Matek, Esq.	-	Public Arbitrator, Presiding Chair
John G. Manley, Esq.	-	Public Arbitrator
Brian E. Slotky	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/ Michael S. Matek

10/18/01

Michael S. Matek, Esq.
Public Arbitrator, Presiding Chair

Signature Date

/s/ John G. Manley

09/19/01

John G. Manley, Esq.
Public Arbitrator

Signature Date

/s/ Brian E. Slotky

09/21/01

Brian E. Slotky
Non-Public Arbitrator

Signature Date

10/18/01

Date of Service (For NASD-Dispute Resolution office use only)

NASD Dispute Resolution, Inc.
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3. Respondents First Union Securities f/k/a/ Everen Securities and Ronald W. Fox are jointly and severally liable for:

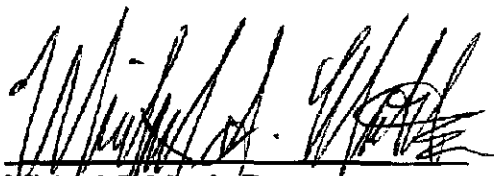
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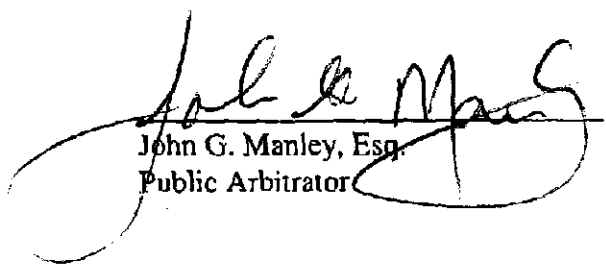
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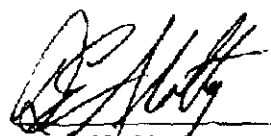
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