

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimants
Gary and Bonnie Guin

Case Number: 04-01640

Name of the Respondents
InterSecurities, Inc. and
Gregory James Hildebrand

Hearing Site: Dallas, Texas

NATURE OF THE DISPUTE

Public Customer v. Member Firm and Associated Person

REPRESENTATION OF PARTIES

Claimants Gary and Bonnie Guin, hereinafter collectively referred to as "Claimants": Richard H. Elliott, Esq. of the Law Offices of Richard H. Elliot, located in Dallas, Texas.

Respondents InterSecurities, Inc. ("InterSecurities") and Gregory James Hildebrand ("Hildebrand"), hereinafter collectively referred to as "Respondents": Burton W. Wiand, Esq., of the firm of Fowler White Boggs Banker, P.A., located in Tampa, Florida.

CASE INFORMATION

Statement of Claim filed on: March 9, 2004.

Claimants signed the Uniform Submission Agreement on: February 21, 2004.

Statement of Answer filed by Respondents on: June 14, 2004.

Respondent InterSecurities signed the Uniform Submission Agreement on or about: August 12, 2004.

Respondent Hildebrand signed the Uniform Submission Agreement: July 29, 2004.

Claimants' Pre-Hearing Brief filed on: May 9, 2005.

Respondents' Pre-Hearing Brief filed on: May 9, 2005.

Respondents' Motion for Sanctions filed on: June 2, 2005

Respondents' Motion to Dismiss Claims for Punitive Damages filed on: June 2, 2005.

CASE SUMMARY

Claimants asserted the following causes of action: breach of fiduciary duty; negligence and breach of the NASD Rules; breach of contract; violation of the Louisiana Securities Law; and the failure of InterSecurities to supervise its employee's actions. These causes of action related to

Respondents investing Claimants' retirement funds in a high cost, tax-deferred Western Reserve Variable Annuity within an IRA Rollover Account.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following affirmative defenses:

1. Claimant was fully advised of and understood the nature of the investments purchased in his account;
2. Claimant received prospectuses or disclaimer documentation for all of his investments which disclosed the investments' nature and associated risks;
3. Claimant's claims are barred by the doctrine of estoppel;
4. Claimant's claims are barred by the doctrine of ratification;
5. Claimant's claims are barred by the doctrine of waiver;
6. Claimant's losses were caused by acts, events, and/or conditions beyond Respondents' control;
7. Claimant failed to act with due diligence in connection with his investments and failed to timely disaffirm the transactions and acts complained of in the Statement of Claim despite his knowledge of these alleged actions and transactions;
8. Claimant failed to mitigate damages;
9. Claimant's claims are barred by the doctrine of unclean hand;
10. Claimant's losses were proximately caused by his own decisions, conduct, and/or negligence, and not by any action or inaction of Respondents. Therefore, the Claimant's claims are barred in whole or in proportion to his negligence that contributed to his losses;
11. Claimant's claims arise out of a contractual relationship and, as a result, all of the non-contractual claims are barred by the economic loss doctrine;
12. Claimant's claims are barred by the doctrine of express assumption of risk;
13. Claimant's claims are barred by the principles of comparative negligence;
14. Respondents had in place procedures and a system for applying such procedures which was reasonably designed to prevent and detect the alleged securities violations;
15. Claimant's claims are in whole or in part barred by the statute of limitations and/or laches; and,
16. Claimant is not entitled to recovery against the Respondents because Respondents acted in good faith at all times and exercised reasonable diligence.

RELIEF REQUESTED

Claimant requested:

Compensatory Damages
Punitive Damages

Interest
Attorneys' Fees

In excess of \$480,000.00
As determined by the arbitrators to
deter such egregious actions by
Respondent in the future
See below
For the sum of all legal fees so

Other Costs

Other Monetary/Non-Monetary Relief if any:

Claimants will be made whole for their losses

In the sum of all costs, expensed and fees incurred by the Guins due to Respondents' actions

Rescission of the variable annuity transaction executed by Respondents in the Guins' IRA Rollover retirement account, plus interest from February 16, 2001 to the date of the award as prescribed by Louisiana law, plus such other relief as the Panel deemed just and proper.

Respondents originally requested that the Guins' claims should be dismissed. In their pre-hearing brief, the Respondents also requested that the Panel award them costs, including reasonable attorneys' fees, incurred in defending these claims.

OTHER ISSUES CONSIDERED AND DECIDED

The Panel denied Respondents' Motion for Sanctions and Motion to Dismiss Claims for Punitive Damages during the hearing.

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. The Statement of Claim is hereby dismissed and denied in its entirety;
2. The parties shall bear their own costs of arbitration, including any attorneys' fees, except for those sums enumerated below; and,
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 will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$ 375.00

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. Accordingly, InterSecurities, Inc. is a party and the following member fees are assessed:

Member surcharge	= \$ 2,250.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 4,000.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed: None.

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A 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:

Two (#) Pre-hearing session(s) with Panel @ \$1,200.00	= \$ 2,400.00
Pre-hearing conferences:	
August 25, 2004	1 session
June 17, 2005	1 session
 Fifteen (15) Hearing sessions @ \$1,200.00	 = \$18,000.00
Hearing Dates:	
June 7, 2005	2 sessions
June 8, 2005	2 sessions
June 9, 2005	2 sessions
June 10, 2005	2 sessions
August 2, 2005	2 sessions
August 3, 2005	2 sessions
August 4, 2005	2 sessions
August 5, 2005	1 session
<hr/> Total Forum Fees	<hr/> = \$20,400.00

The Panel has assessed \$10,200.00 of the forum fees to Respondent InterSecurities, Inc. and the remaining \$10,200.00 of the forum fees to Respondent Gregory James Hildebrand.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

Respondent InterSecurities request for tapes	= \$ 210.00
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SEE SUMMARY

Claimants Gary and Bonnie Guin are jointly and severally liable for:

Initial Filing Fee	= \$ 375.00
Less payments	= \$ 1,575.00

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Balance Refunded by NASD Dispute Resolution = \$ 1,200.00

Respondent InterSecurities, Inc. is solely liable for:

Member Fees	= \$ 7,000.00
Forum Fees	= \$10,200.00
Administrative Costs	= \$ 210.00
Total Fees	= \$17,410.00
Less payments	= \$ 7,210.00
Balance Due NASD Dispute Resolution	= \$10,200.00

Respondent Gregory James Hildebrand is solely liable for:

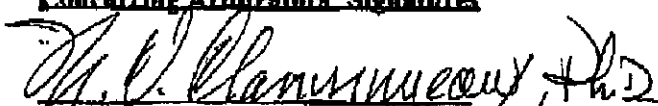
Forum Fees	= \$10,200.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$10,200.00

All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Malcolm W. Clarrissimeaux, PhD - Public Arbitrator, Presiding Chairperson
 Martha Z. Ralstin - Public Arbitrator
 Charles E. Martin, CPA - Non-Public Arbitrator

Concurring Arbitrators' Signatures


 Malcolm W. Clarrissimeaux, PhD
 Public Arbitrator, Presiding Chairperson

8/9/05
 Signature Date

 Martha Z. Ralstin
 Public Arbitrator

 Signature Date

 Charles E. Martin, CPA
 Non-Public Arbitrator

 Signature Date

8/10/05 
 Date of Service (For NASD Dispute Resolution office use only)

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Respondent Gregory James Hildebrand is solely liable for:

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Less payments	= \$ 0.00
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Public Arbitrator, Presiding Chairperson

Martha Z. Ralstin

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Public Arbitrator

Signature Date

8/9/05

Signature Date

Charles E. Martin, CPA
Non-Public Arbitrator

Signature Date

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8-9-05
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