

**Award**  
**NASD Dispute Resolution**

---

In the Matter of the Arbitration Between:

Gary H. Ellmore and Nancy Ellmore (Claimants) vs. Reliance Financial Group, Walter Grenda, Jr., and Securities America, Inc. (Respondents)

Case Number: 05-01402

Hearing Site: Buffalo, New York

---

Nature of the Dispute: Customers vs. Non-Member, Member and Associated Person.

**REPRESENTATION OF PARTIES**

Claimants Gary H. Ellmore ("G. Ellmore") and Nancy Ellmore ("N. Ellmore") hereinafter referred to as "Claimants": James I. Myers, Esq., Myers & Quinn, LLP, Williamsville, NY.

Respondents Reliance Financial Group ("Reliance Financial"), Walter Grenda, Jr., ("Grenda") and Securities America, Inc. ("Securities America") hereinafter collectively referred to as "Respondents": Samuel E. Cohen, Esq. and Denis C. Dice, Esq., Marshall, Dennehey, Warner, Coleman & Goggin, Philadelphia, PA.

**CASE INFORMATION**

Statement of Claim filed on or about: March 15, 2005.

Claimants signed the Uniform Submission Agreement: March 10, 2005.

Statement of Answer filed by Respondents on or about: June 3, 2005.

Securities America signed the Uniform Submission Agreement: April 2, 2005.

Grenda signed the Uniform Submission Agreement: June 21, 2005.

Reliance Financial did not submit a signed Uniform Submission Agreement.

**CASE SUMMARY**

Claimants asserted the following causes of action: breach of fiduciary duty, misrepresentations, fraud, violations of NASD Rules, violations of Rule 10(b) of the 1934 Securities Exchange Act, negligence, unsuitability, and failure to supervise. The causes of action relate to unspecified securities in Claimants' IRA account.

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

**RELIEF REQUESTED**

Claimants requested compensatory damages in the amount of not less than \$475,000.00, punitive damages, refund of fees and commissions, attorneys' fees, interest, costs, disbursements, and such other and further relief as the Arbitrators deem just and proper.

Respondents requested dismissal of the Statement of Claim in its entirety and that an Order be entered directing the expungement of any reference to this proceeding from Grenda's CRD records.

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

Respondent Securities America did not file with NASD Dispute Resolution a properly executed Uniform Submission Agreement but is required to submit to arbitration pursuant to the Code and, having answered the claim and appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

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 Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents are liable for and shall pay to Claimants compensatory damages in the amount of \$115,000.00 plus interest at a rate of 5% per annum beginning from January 1, 2005 until the date this Award is paid.
2. 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	= \$ 300.00
--------------------------	-------------

#### **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, Securities America, Inc. is a party.

Member Surcharge	= \$ 1,700.00
Pre-hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$ 2,750.00

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

The Panel has assessed forum fees for each session conducted or each decision rendered on a discovery-related motion on the papers. A 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 with a single arbitrator @ \$450.00	= \$ 450.00
---	-------------

Pre-hearing conference:      October 11, 2005      1 session

One (1) Pre-hearing session with Panel @ \$1,125.00      = \$ 1,125.00

Pre-hearing conference:      July 20, 2005      1 session

Eight (8) Hearing sessions with Panel @ \$1,125.00      = \$ 9,000.00

Hearing sessions:      February 14, 2006      2 sessions

February 15, 2006      2 sessions

February 16, 2006      2 sessions

February 17, 2006      2 sessions

---

Total Forum Fees      = \$ 10,575.00

1. The Panel has assessed \$10,575.00 of the forum fees jointly and severally to Respondents.

**Fee Summary**

1. Claimants are jointly and severally liable for:

Initial Filing Fee      = \$ 300.00

Total Fees      = \$ 300.00

Less payments      = \$ 1,425.00

Refund Due Claimants      = \$ 1,125.00

2. Respondent Securities America is solely liable for:

Member Fees      = \$ 5,200.00

Total Fees      = \$ 5,200.00

Less payments      = \$ 5,200.00

Balance Due NASD Dispute Resolution      = \$ 0.00

3. Respondents are jointly and severally liable for:

Forum Fees      = \$ 10,575.00

Total Fees      = \$ 10,575.00

Less payments      = \$ 0.00

Balance Due NASD Dispute Resolution      = \$ 10,575.00

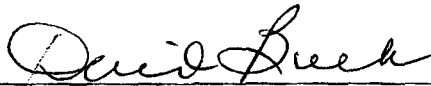
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

**ARBITRATION PANEL**

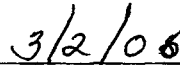
David Buch, Esq.	-	Public Arbitrator, Presiding Chairperson
Cheryl C. Nichols, Esq.	-	Public Arbitrator
AnnDrea M. Benson	-	Non-Public Arbitrator

**Concurring Arbitrators' Signature**

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.



David Buch, Esq.  
Public Arbitrator, Presiding Chairperson



Signature Date

Cheryl C. Nichols, Esq.  
Public Arbitrator

Signature Date

AnnDrea M. Benson  
Non-Public Arbitrator

Signature Date

March 9, 2006

Date of Service (For NASD Dispute Resolution use only)

**ARBITRATION PANEL**

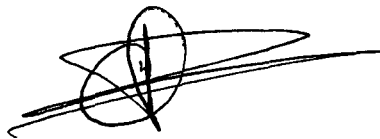
David Buch, Esq.	-	Public Arbitrator, Presiding Chairperson
Cheryl C. Nichols, Esq.	-	Public Arbitrator
AnnDrea M. Benson	-	Non-Public Arbitrator

**Concurring Arbitrators' Signature**

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.

\_\_\_\_\_  
David Buch, Esq.  
Public Arbitrator, Presiding Chairperson

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



\_\_\_\_\_  
Cheryl C. Nichols, Esq.  
Public Arbitrator

\_\_\_\_\_  
3/9/06  
Signature Date

\_\_\_\_\_  
AnnDrea M. Benson  
Non-Public Arbitrator

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

\_\_\_\_\_  
March 9, 2006  
Date of Service (For NASD Dispute Resolution use only)

**ARBITRATION PANEL**

David Buch, Esq.	-	Public Arbitrator, Presiding Chairperson
Cheryl C. Nichols, Esq.	-	Public Arbitrator
AnnDrea M. Benson	-	Non-Public Arbitrator

**Concurring Arbitrators' Signature**

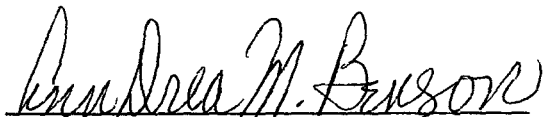
I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.

\_\_\_\_\_  
David Buch, Esq.  
Public Arbitrator, Presiding Chairperson

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

\_\_\_\_\_  
Cheryl C. Nichols, Esq.  
Public Arbitrator

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

  
\_\_\_\_\_  
AnnDrea M. Benson  
Non-Public Arbitrator

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

\_\_\_\_\_  
March 9, 2006  
Date of Service (For NASD Dispute Resolution use only)