

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

GOLDEN BELT SAVINGS AND LOAN ASSOC.

Claimant(s)

and

METRO SEC., INC., GLICKENHAUS-LTG & CO.,
AND WESTCAP GOVERNMENT SEC., INC.

Respondent(s)

CASE NO. 88-02288

CASE SUMMARY

Golden Belt Savings and Loan Association ("Golden Belt") alleged as follows:

1. Golden Belt advised the president of Metro Securities, Inc. ("Metro") that it was interested in purchasing a security that would provide little return of principal over a four or five year period, but which would yield a good rate of interest.

2. Metro recommended and Golden Belt purchased a GNMA Pool from Metro on September 18, 1987. Golden Belt subsequently was informed that the Pool was to be prepaid on February 15, 1988 and that the Pool had been in default since September 1, 1986.

3. Metro made representations regarding the Pools' prepayment penalty and the unlikelihood of prepayment, and Golden Belt relied on these representations.

4. Metro should have been aware of the Pool's default and therefore the possibility of prepayment.

5. As a result of Metro's sale of the pool to Golden Belt at a premium without notice of the default Golden Belt was damaged. Also, Glickenhau-LTG and Co. and Westcap Government Securities should informed Metro and Golden Belt of the default.

In answer to Golden Belts claims, Metro alleged as follows:

1. Denied the claims of Golden Belt;

2. Golden Belt inquired with DRG Funding as to the status of default;

3. Metro Securities, Inc. was not advised by Westcap, from whom Metro Securities, Inc. purchased the security, of the default;

4. Golden Belt was not aware that Westcap had purchased from Glickenhau.

In Answer and cross-claim, Westcap alleged as follows:

1. Denied all claims of Metro;
2. Glickenhause failed to inform Westcap of the default and therefore if Westcap is held liable to Golden Belt or Metro, then it should recoup such sums from Glickenhause;

In answer and third-party claim, Glickenhause alleged as follows:

1. Glickenhause-LTG & Co. was not a viable legal entity;
2. Glickenhause never knew that the pool was in default and never was told by Solomon Bros., Inc. ("Solomon"), from whom Glickenhause purchased the pool on August 25, 1987, that the pool was in default;
3. Glickenhause has no privity with the Claimant, and Claimant assumed all risks in absence of covenants;
4. The following affirmative defenses bar any claim 1) failure to state a claim upon which relief can be granted; 2) lack of knowledge. Glickenhause acted in good faith and induced no wrong doing;
5. Solomon Bros. should be liable to Glickenhause to the same extent as Glickenhause is held liable to any other party;
6. Glickenhause denied any liability as alleged in Westcap cross-claim.

In answer Solomon Bros. alleged as follows:

1. Denied any liability to Glickenhause;
2. Solomon had no knowledge of default and specifically warned Glickenhause' representative of prepayment risk since there was no prepayment history.

RELIEF REQUESTED

Claimant requested revised damages in the amount of \$23,781.61 against Metro. The Respondents Glickenhause, Metro, and Westcap asked the Claimants claims be dismissed. The Third party claims and cross-claims are set forth above.

AWARD

On July 18, 1989 the Claimant filed its Statement of Claim with the NASD. On October 17, 1989, the undersigned arbitrators heard the controversy between the parties as set forth in the submissions to arbitration signed by Ronald Wentz on July 14, 1988 on behalf of the Claimant, on September 21, 1988 by Gregory W. Donner on behalf of Respondent Metro, on August 24, 1988 by James C. Hay on behalf of Respondent Westcap, on November 9, 1988 by Stanley R. Goldberg on behalf of Glickenhau, and on December 9, 1988 by Zachary Snow on behalf of Solomon Brothers, Inc. The hearing was in heard in one session in Kansas City, Missouri.

The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has decided in full and final resolution of the issues submitted for determination as follows:

1. The panel awards damages to Golden Belt in the amount of \$22,600.00 against Metro Securities, Inc.;
2. Each party shall bear their own costs and expenses including attorneys' fees incurred in this matter;
3. Pursuant to Section 43(b) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain as forum fees, the \$400.00 filing fee previously deposited with the NASD by the Claimant Golden Belt Savings and Loan Association.

OTHER MATTERS

Glickenhau, Westcap, and Solomon Bros. settled their disputes with the Claimant and each other.

By the Panel

Dated: 11-3-89 /S/ John H. Lundgren, Esq.
Presiding Chair

Dated: 11-3-89 /S/ William F. Hoeschle

Dated: 11-6-89 /S/ Walter E. Knowles

Date Served: 12-4-89