

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

The Spokane Police Beneficial Association Claimant
a Washington Corporation

vs.

Alan Kominz, an individual, Kominz Respondent
Company Securities, Inc., Kominz Company
Government Securities, Inc. and Richardson
Greenshields Securities, Inc.

AWARD

CASE #88-03013

SUMMARY OF ISSUES

This case was filed on September 26, 1988. Claimant, The Spokane Police Beneficial Association (Association) claims that Respondents Alan Kominz, Kominz Company Securities, Inc. and Kominz Company Government Securities, Inc. (Kominz) acted as money broker in order to place investment funds for various institutions.

In early 1986 a representative of Kominz solicited Nicolis Stanley, the treasurer of the Claimant Association's retirement fund, to buy investments for the Association.

The Association opened an account with Kominz and commenced purchasing GNMA Securities. The Association was told that the securities would be segregated and held in the Kominz Securities account for safekeeping.

Kominz Company Government Securities maintained a special Omnibus Account with Respondent Richardson Greenshields Securities, Inc. (Greenshields), with Greenshields acting as clearing agent for Kominz. In contradiction to Kominz's representations to the Association, the securities were placed in the Omnibus Account and used as collateral for margin purchases.

Greenshields states that subsequent margin calls in the Omnibus Account were not met and the securities were liquidated.

The Association contends that Kominz fraudulently placed their securities in the Omnibus Account and that Greenshields aided and abetted Kominz's fraudulent act.

Respondent Greenshields, answering solely on its own behalf, states that it owes no fiduciary duty of care to claimant nor was it a party to any agreement or contract with Claimant regarding the maintenance or safekeeping of Claimant's securities. Respondent Greenshields also assert defenses of estoppel,

ratification and Claimant's failure to exercise due diligence in monitoring its accounts with Kominz.

Greenshields claims entitlement to indemnification from Respondent Kominz by contract.

Alan H. Kominz claims that the NASD did not have personal jurisdiction over him, nor did the NASD have jurisdiction over Kominz Company Government Securities, Inc. or Kominz Company Securities, Inc.

The panel, having heard testimony on this issue and after reviewing documentary evidence ruled that the NASD had jurisdiction over all the Respondents and the hearing commenced.

DAMAGES AND RELIEF REQUESTED

Claimant seeks reimbursement from the Respondents for the value of its fraudulently liquidated GNMA Securities in the amount of \$127,072.84 and reimbursement for its costs and attorneys' fees.

Respondents Alan Kominz, an individual, Kominz Company Securities, Inc., and Kominz Company Government Securities, Inc. did not file answers to the claim.

Respondent Richardson Greenshields Securities, Inc. seeks dismissal of the claim and indemnification from the other named Respondents plus attorneys' fees and costs.

DAMAGES AND RELIEF AWARDED

On November 14 and 15, 1989 in Los Angeles, California the undersigned arbitrators heard the controversy in five sessions between the parties as set forth in submissions to arbitration signed by Claimant Spokane Police Beneficial Association on May 9, 1988 and by Respondent Richardson Greenshields Securities, Inc. on December 12, 1988. Alan Kominz, Kominz Company Securities, Inc and Kominz Company Government Securities, Inc. did not file submission agreements or answers. The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has determined in full and final resolution of the issues submitted for determination as follows:

1. Alan Kominz, Kominz Company Securities, Inc., Kominz Company Government Securities, Inc. and Richardson Greenshields Securities, Inc. are jointly and severally liable and shall pay to Claimant the sum of One Hundred Six Thousand Dollars and no cents (\$106,000.00) together with interest thereon at the rate of 7% per annum from October 14, 1987 to date of this award.

2. Alan Kominz, Kominz Company Securities, Inc., Kominz Company Government Securities, Inc., are contractually liable for and shall pay to Claimant the sum of Twenty Two Thousand Dollars and no cents (\$22,000.00) in attorneys' fees.

3. Alan Kominz, Kominz Company Securities, Inc., and Kominz Company Government Securities, Inc. are jointly and severally liable and shall pay to

Cross/Claimant Richardson Greenshields Securities, Inc. the sum of One Hundred Six Thousand Dollars and no cents (\$106,000.00) together with interest thereon at the rate of 7% per annum from October 14, 1987 to the date of this award as indemnification.

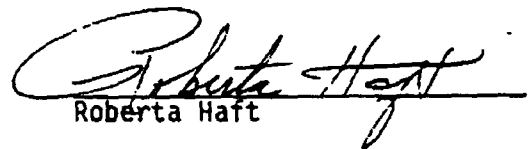
4. Alan Kominz, Kominz Company Securities, Inc. and Kominz Company Government Securities, Inc. and Richardson Greenshields Securities, Inc. are jointly and severally assessed and shall pay to the National Association of Securities Dealers, Inc. the sum of \$3,000.00 in forum fees.

5. The parties shall each bear their respective costs.

6. Pursuant to Section 43 of the National Association of Securities Dealers, Inc ("NASD") Code of Arbitration Procedure, the NASD shall retain the \$750.00 filing fee previously deposited by the Claimant.

ARBITRATORS CONCURRING

DATE SERVED: December 13, 1989


Roberta Haft