

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Hannie Kristina Bayless,  
Claimant

89-03114

GRH Securities, Inc. and  
Nelson F. Gould,  
Respondents

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CASE SUMMARY

In a claim filed with the NASD on or about November 6, 1989, Hannie Kristina Bayless ("Claimant") alleged that Nelson F. Gould ("Gould") and GRH Securities, Inc. ("GRH")(collectively as "Respondents") made material misrepresentations and omitted to state material facts to induce her to purchase interests in four real estate limited partnerships. Claimant specifically alleged that Gould stated he would be her financial advisor and failed to inform her of the risks associated with the purchase of real estate limited partnerships.

In their joint answer filed with the NASD on or about February 9, 1990, Respondents denied the allegations of Claimant. Respondent Gould further denied that he acted as a financial planner to the Claimant. Respondents stated that Gould made oral presentations relating to investments which included the nature, structure, functions, risks, rewards and tax implications of each investment. Respondents asserted the following affirmative defenses: failure to state a claim upon which relief may be granted; waiver; estoppel; laches; and ratification.

OTHER ISSUES

At the onset of the hearing and prior to opening statements, Respondent's counsel presented a Motion to Dismiss based upon Section 15 of the NASD Code of Arbitration Procedure. After hearing oral argument on the motion the panel took the matter under advisement and at the conclusion of the hearing denied the motion.

The parties have agreed to allow the panel to either execute a handwritten award or to sign counterpart copies of the award and forward typed, conformed copies to the parties with the original signature pages to be on file with the NASD.

### RELIEF REQUESTED

Claimant requested an award in the amount of \$256,954.48 which sum includes interest, attorney's fees and costs.

Respondents requested that the Statement of Claim be dismissed in its entirety and that reasonable attorney's fees be awarded.

### AWARD

On Friday, September 21, 1990 in Scottsdale, Arizona during a hearing lasting a total of two (2) sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on November 3, 1989 by Claimant Hannie Kristina Bayless on February 7, 1990 by Craig Davis on behalf of Respondent GRH Securities, Inc. on February 7, 1990 by Respondent Nelson F. Gould.

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. Respondents GRH Securities, Inc. and Nelson F. Gould shall be and hereby are jointly and severally liable for and shall pay to the Claimant the sum of Seventy Thousand Dollars (\$70,000.00);

2. Interest at the rate of 8% per annum is awarded on Twenty Thousand Dollars (\$20,000.00) of the above stated sum from and inclusive of March 21, 1983 to and inclusive of the date paid. Interest at the rate of 8% per annum is awarded on Fifty Thousand Dollars (\$50,000.00) of the sum stated in paragraph 1 above from and inclusive of April 6, 1984 to and inclusive of the date paid;

3. The total amount awarded in paragraphs 1 and 2 above shall be reduced by the sum of Twenty Nine Thousand Three Hundred Twenty Dollars (\$29,320.00) which represents cash distributions received by Claimant;

4. Respondent Nelson F. Gould shall be and hereby is liable for and shall pay to Claimant Hannie Kristina Bayless the sum of Nine Thousand Dollars (\$9,000.00);

5. Interest at the rate of 8% per annum is awarded on the sum stated in paragraph 3 above from and inclusive of August 4, 1982 to and inclusive of the date paid;


6. The total amount awarded in paragraphs 4 and 5 above shall be reduced by the sum of One Thousand Seven Hundred Eighty Dollars (\$1,780.00) which represents cash distributions received by Claimant;

7. Claimant Hannie Kristina Bayless shall transfer and assign her interests in the following real estate limited partnerships to Respondents: Balcor Realty Investors-83; Southmark Realty Partners, Ltd.; Twenty-five Thousand Dollars (\$25,000.00) of R.I.C. 17, Ltd.; and D & G Properties #1;

8. Respondents GRH Securities, Inc. and Nelson F. Gould shall be liable for and shall pay to Claimant Hannie Kristina Bayless the sum of Five Thousand Dollars (\$5,000.00) as attorneys fees;

9. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall refund the filing fee in the amount of \$750.00 previously deposited with the NASD by the Claimant Hannie Kristina Bayless. Respondents shall pay to the NASD the sum of \$1500.00.

Oct. 3, 1990

  
Kevin Olson, Esq.

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Peter Kerwick

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Dave Dove

DATE SERVED: OCTOBER 19, 1990

8. Respondents GRH Securities, Inc. and Nelson F. Gould shall be liable for and shall pay to Claimant Hannie Kristina Bayless the sum of Five Thousand Dollars (\$5,000.00) as attorneys fees;

9. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall refund the filing fee in the amount of \$750.00 previously deposited with the NASD by the Claimant Hannie Kristina Bayless. Respondents shall pay to the NASD the sum of \$1500.00.

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