



Arbitration

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of  
Securities Dealers, Inc.  
One East Broward Boulevard  
Suite 1000  
Ft. Lauderdale, Florida 33301  
(305) 522-7391

In the Matter of the Arbitration Between

Name of Claimant(s)

William DeRham, et al.  
Ross Correia  
James Edward Craig  
Elliot B. and Judith S. Kleiman  
Richard L. and Lanny K. Marks

Case No. 89-02022  
Case No. 90-00854  
~~Case No. 90-00947~~  
Case No. 90-00954  
Case No. 90-00961

Name of Respondent(s)

Pension Investors Securities Corporation fka  
Pension Securities Corporation  
Lawrence Weiner  
James Bouterse

Heard before the members of the Arbitration Panel:

Marilyn B. Cane, Esq.  
Randy R. Freedman, Esq.  
Douglas Delaney, Jr.

CASE SUMMARY

These claims were filed with the National Association of Securities, Inc. (NASD): DeRham on July 17, 1989; Correia on March 22, 1990; Craig, Kleimans and Marks on April 2, 1990. The hearings were conducted in Fort Lauderdale, Florida on October 22, 24, 26 and 31, 1990, with a total of seven (7) sessions.

Claimants, William DeRham ("DeRham"), Nancy B. Ponvert ("Ponvert") for Kent K. Wilkinson, Jr. ("K. Wilkinson") and Duncan B. E. Wilkinson ("D. Wilkinson"), James Edward Craig ("Craig"), Ross Correia ("Correia"), Elliot B. and Judith S. Kleiman ("Kleimans"), Richard L. Marks ("R. Marks"), and Lanny K. Marks ("L. Marks"), alleged that they purchased units in Corporate Complex, Ltd., a Florida limited partnership from the partnership and that Respondents, Pension Investors Securities Corporation ("Pension"), Lawrence Weiner ("Weiner"), and James Bouterse ("Bouterse"), participated in the sales and aided, abetted, and conspired with the partnership and its general partners in such sales; that Respondents made misrepresentations of material facts and omitted to state material facts in violation of Section 517.301, Florida Statutes, and committed common law fraud and negligence.

Respondents denied all allegations of wrongdoing and alleged the affirmative defenses of: failure to state a cause of action; lack of knowledge or intent; lack of material reliance; lack of privity; improper joinder of unrelated Claimants; bar by the statute of limitations; failure to properly allege common law fraud; contributory negligence and/or lack of due diligence; lack of proximate cause; and, Claimants' own negligence was the proximate cause or substantial contributing cause of the claimed damages.

#### RELIEF REQUESTED

Claimants requested rescission; damages in the following amounts: DeRham \$78,400.00; Ponvert \$22,400.00; Kleimans \$11,200.00; Correia \$11,200.00; Craig \$44,800.00; and, R. and L. Marks \$11,200.00. All Claimants further requested statutory interest; punitive damages; and, reasonable attorney's fees.

Respondents requested dismissal.

#### AWARD

On October 22, 24, 26 and 31, 1990, the arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimants, DeRham and Ponvert on October 24, 1990; Correia on February 28, 1990; Craig on March 7, 1990; the Kleimans on February 28, 1990; and, the Marks on February 23, 1990, and by Respondents, Pension on March 9 and October 24, 1990; Wiener on March 12 and October 24, 1990; and by Bouterse on March 12 and October 24, 1990. 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. 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. In either case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD.
2. Respondents, Pension, Weiner and Bouterse, are found not liable and, therefore, all claims against them are hereby dismissed.
3. Claimants' requests for attorney's fees and punitive damages are denied.
4. Pursuant to Section 43 of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of Five Thousand Two Hundred Fifty and 00/100 (\$5,250.00) Dollars (seven sessions x \$750.00). Claimants are assessed Two Thousand Six Hundred Twenty Five and 00/100 (\$2,625.00) Dollars in the following proportions: DeRham and Ponvert are assessed Eight Hundred Seventy Five and 00/100 (\$875.00) Dollars, jointly and severally, for which the NASD shall retain the Seven Hundred Fifty and 00/100 (\$750.00) Dollar filing fee previously deposited in partial satisfaction thereof; Correia is assessed Four Hundred Thirty Seven and 50/100 (\$437.50) Dollars for which the NASD shall retain the Four Hundred and 00/100 (\$400.00) Dollar session deposit in partial satisfaction thereof; Craig is assessed Four Hundred

Thirty Seven and 50/100 (\$437.50) Dollars for which the NASD shall retain the Two Hundred Eighty and 00/100 (\$280.00) Dollar session deposit in partial satisfaction thereof; the Kleimans are assessed Four Hundred Thirty Seven and 50/100 (\$437.50) Dollars for which the NASD shall retain the Three Hundred and 00/100 (\$300.00) Dollar session deposit in partial satisfaction thereof; and, the Marks are assessed Four Hundred Thirty Seven and 50/100 (\$437.50) Dollars for which the NASD shall retain the Three Hundred and 00/100 (\$300.00) Dollar session deposit in partial satisfaction thereof. Respondents, Pension, Weiner and Bouterse, are assessed Two Thousand Six Hundred Twenty Five and 00/100 (\$2,625.00) Dollars, jointly and severally, payable to the National Association of Securities Dealers, Inc.

5. The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including attorneys' fees.

#### OTHER ISSUES

During the course of the hearing in these matters, the Claimants, L. and R. Marks, the Kleimans, Correia and Craig, dismissed the first Count of their respective claims which alleged violations of Section 517.301, Florida Statutes.

Pursuant to Section 43 of the Code, as amended June 18, 1990, the following amounts shall be non-refundable filing fees for the following- Claimants: Correia, \$100.00; Craig, \$120.00; Kleimans, \$100.00; and Marks, \$100.00.

#### ARBITRATORS CONCURRING

Marilyn B. Cane Esq., Randy R. Freedman Esq. and Douglas Delaney, Jr.

Dated this 12th day of November 1990.