

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant(s)

Annette C. Glink

90-01098

Name of Respondent(s)

Carlton Phillips  
Cenpac Securities Corporation

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CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. ("NASD") on or about April 17, 1990, Claimant Annette C. Glink ("Glink") alleged that Respondents Carlton Phillips ("Phillips") and Cenpac Securities Corporation ("Cenpac") violated Section 10(b) of the Securities and Exchange Act of 1934. Glink alleged that she was originally solicited by telephone to purchase Interfirst Bank of Texas bonds. Glink alleged that the bonds were touted as a "no risk, safe, secure and marvelous investment." Glink alleged that she was a widow with low income and was interested in small, conservative investments which held little or no risk and a solid rate of return. Additionally, Glink alleged violations of other laws and regulations.

In a statement of answer filed with the NASD on or about May 25, 1990, Phillips alleged that the Interfirst debentures were consistent with the types of prior investments by Glink and the types requested by her. Phillips alleged that he had a long term relationship with Glink and had reasonable grounds for believing that the debentures were suitable for Glink. Phillips further alleged that the Interfirst debentures were not a disproportionate part of Glink's relative financial means or mix in her portfolio. Phillips further alleged that he did not breach any fiduciary duty owed to Glink and denied that he failed to make full and complete disclosure of the risks inherent in the investments. Phillips also asserted affirmative defenses including but not limited to laches, estoppel and ratification.

Cenpac did not file a separate answer to the Statement of Claim.

RELIEF REQUESTED

Glink requested damages of \$15,800 plus punitive damages and attorney's fees. Phillips and Cenpac requested denial of the claim plus an award of reasonable attorney's fees in accordance with A.R.S. 12-341.01.

### PROCEDURAL MATTERS

The panel considered three matters on the morning of the hearing. The items considered were inclusion of Glink's reply to the Statement of Answer as part of Arbitrator's exhibit number one and two purported amendments to the Statement of Claim. The panel heard the motion to strike the reply to the answer and having taken this motion under advisement hereby denies it as part of the award. The panel considered Glink's motion to amend the claim to include Cenpac Securities Corp. as a respondent and granted this motion at the hearing. The panel denied the second motion to amend the claim for damages on the Vestron purchase. Both amendments were considered pursuant to the panel's authority in Section 39(a) of the NASD Code of Arbitration Procedure. At the close of Glink's case, the panel considered a motion for directed verdict made on behalf of Phillips and Cenpac and denied the motion.

### AWARD

On Wednesday, January 30, 1991, in Scottsdale, Arizona during a hearing lasting two (2) sessions, the undersigned arbitrator(s) heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant, Annette C. Glink on April 5, 1990 by Carlton Phillips on behalf of Respondent Cenpac Securities Corporation on January 30, 1991 and on May 25, 1990 by Respondent Carlton V. Phillips.

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award be entered. In either case, the parties have agreed to receive conformed copies of the Award while the original remains on file with the NASD.

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. Glink's claims asserted against Phillips and Cenpac shall be and are hereby denied in their entirety;
2. The parties shall each bear their respective costs, expenses and attorney's fees incurred in this matter; and

3. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the hearing session deposit in the amount of \$400.00 previously deposited with the NASD by Claimant Glink. Cenpac is assessed additional forum fees payable to the NASD in the amount of \$400.00.

Dated: January 30, 1991

Glenn Rosenthal  
Presiding Chair

Dated: January 30, 1991

Thomas S. Barsuk

Dated: January 30, 1991

Bruce Genthner  
Industry Arbitrator

Date Served: February 7, 1991