

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of
Securities Dealers, Inc.
NASD Financial Center
33 Whitehall Street
New York, N.Y. 10004
FAX (212) 858-4389

In the Matter of the Arbitration BetweenName of Claimant

Walter S. Grossman

90-02658

Name of Respondent

Charles Bolanis, II

REPRESENTATION

For Claimant ("Claimant"): Gregory A. Santarelli, a sole practitioner.

For Respondent ("Respondent"): William T. Maloney, of Maloney & Lindsay.

CASE INFORMATION

Statement of Claim filed: there was no date on the Statement of Claim;
however, it was received by the NASD on September 20, 1990.

Amendment to Statement of Claim filed: December 13, 1990.

Claimant's Submission Agreement signed on: July 19, 1990.

Statement of Answer and Motion to Dismiss filed by Respondent on: there was
no date on the Statement of Answer; however it was received by the NASD on
July 25, 1991.

Respondent's Submission Agreement signed on: Pursuant to Section 12 of the
Code of Arbitration Procedure, Respondent did not submit a signed and
notarized submission agreement.

HEARING INFORMATION

Hearing Dates/Sessions: December 17, 1991/1 session.

Hearing Location: NASD, Cleveland, OH.

CASE SUMMARY

Claimant alleged he relied upon Respondent's recommendations to purchase
units of CFS Oracle Gardens Ltd., a Utah Limited Partnership ("Partnership"),
and that Respondent never explained the risks associated with the investment.
Claimant alleged he failed to qualify as a non-accredited subscriber for this
investment and that fact was known to Respondent. He maintained he was given
a Private Placement Memorandum of the Partnership after he made the

AWARD
#90-02658

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purchase. Claimant stated he was never made aware of any right to rescind his subscription to the Partnership. Finally, Claimant alleged Respondent was negligent and failed to properly investigate the investment.

Respondent alleged he advised Claimant of the risks associated with the investment and recommended the investment after analyzing Claimant's financial situation and objectives. Respondent also moved to dismiss this action.

RELIEF REQUESTED

Claimant requested: actual damages in the amount of \$125,000.00 and punitive damages in the amount of \$100,000.00.

Respondent requested: the Claimant's claim be dismissed.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that a handwritten, signed Award may be entered. In this case, the parties have agreed to receive a conformed copy of the Award while the original remains on file with the NASD.

1- Pursuant to the by-laws of the NASDD, the arbitrators determined that Respondent was required to submit to this arbitration and, therefore, was bound by this panel's rulings and determinations.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

- 1- The arbitration panel, having heard arguments and taken evidence on Respondent's Motion to Dismiss grants the Motion to Dismiss;
- 2- All other claims were dismissed;
- 3- Each party shall bear its own expenses, including attorneys' fees.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the \$200.00 non-refundable filing fee previously deposited by Claimant shall be retained by the NASD and the following Forum Fees are assessed.

1 session X \$750.00 = \$750.00

NASD

Arbitration

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AWARD

#90-88363 PC-07655

Forum fees Assessed Against:

1- Claimant, in the amount of \$750.00; however, Claimant may use its \$750.00 hearing session deposit to offset this amount.

CONCURRENCE ARBITRATORSJonathan I. Klein/Public ArbitratorArthur S. Lebowitz/Public ArbitratorDavid Ruckman/Industry ArbitratorDate of Decision: December 17, 1991

AWARD
90-02658

REPORT OF ARBITRATORS

1- The arbitration panel granted the Motion of Respondent to Dismiss for the following reasons:

a- the claim was not timely filed in accordance with Section 15 of the Code of Arbitration Procedure promulgated by NASD, as amended May 7, 1991, in that the claim was not submitted within six (6) years from the occurrence or event giving rise to the claim which, in this case, is the sale of the securities on March 28, 1984;

b- the Claimant's assertion that he was not a suitable investor for the securities sold to him on March 28, 1984, and that such sale was the result of misrepresentations is barred by the applicable Statute of Limitations for such claims as set forth in the United States Supreme Court Decision in Lampf v. Gilbertson, 59 U.S. Law Week 4688 (June 20, 1991) which requires such litigation to be commenced within one (1) year after the discovery of facts constituting the violation and within three (3) years after such violation;

c- with respect to the Claimant's claim of common law fraud, the arbitration panel has determined such claim is barred by the applicable Statute of Limitations, O.R.C. Section 2305.09, in that Claimant failed to timely file his Statement of Claim within four (4) years after the cause thereof accrued; that date being stipulated as prior to May 1986.