

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

MAY 1992

In the Matter of the Arbitration Between

Name of Claimant(s)

Donald & Sheryl Gossett

91-02025

Name of Respondent(s)

General Securities Corp.
David S. Miller
Cindy Leach

REPRESENTATION OF PARTIES

Claimant was represented by Thomas W. Koelling, Esq., Kansas City, Missouri.

Respondents were represented by Jane L. Stafford, Esq. of Mitchell, Kristl & Lieber, Kansas City, Missouri.

CASE INFORMATION

The Statement of Claim was filed on or about June 28, 1991.

Claimant's Submission Agreement signed on June 24, 1991 by Donald L. Gossett and Sheryl A. Gossett.

Statement of Answer filed by Respondents, General Securities Corp., David S. Miller and Cindy Leach on or about August 27, 1991.

Respondent General Securities Corp.'s Submission Agreement signed on August 26, 1991 by David S. Miller.

Respondent David S. Miller's Submission Agreement signed on August 26, 1991.

Respondent Cindy Leach's Submission Agreement signed on August 27, 1991.

HEARING INFORMATION

A pre-hearing conference lasting one (1) session was held on Wednesday, February 12, 1992 with Mark D. Wasserstrom, Esq. presiding.

The hearing lasting two (2) sessions was held on Thursday, April 9, 1992 in Kansas City, Missouri.

CASE SUMMARY

Claimant alleged that Respondents sold unregistered shares of Regional Air

Group. Claimant further alleged that there was not an exemption from registration available to Respondents. Claimants also alleged that Respondents made material misrepresentations in connection with the sales of Regional Air Group.

Respondents denied the allegations set forth in the Statement of Claim. Respondents stated that the purchases were unsolicited and therefore exempt from the registration requirements and that the Claimant is a sophisticated investor who understood and accepted the risks involved in these transactions. Respondents also asserted the following affirmative defenses: the claimant has failed to state a cause of action upon which relief can be granted; the claims are time barred by the applicable statutes of limitations; any losses incurred were the direct result of actions or inaction by the claimant; assumption of the risk; and the doctrines of estoppel and laches.

RELIEF REQUESTED

Claimant requested an award in the amount of \$34,626.85, punitive damages in the amount of \$15,000.00, interest, costs and reasonable attorney's fees.

Respondents requested that the claims be dismissed and that they be awarded their attorney's fees and costs.

OTHER ISSUES CONSIDERED & DECIDED

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 original(s) remain on file with the NASD.

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. Claims 1 (one) and 2 (two) are determined in favor of Respondents and against Claimant. The arbitrators find that Regional Air Group Corporation was not registered with the State of Missouri. Nevertheless, the arbitrators find that all three purchases were unsolicited transactions.
2. All claims asserted against Respondent Cindy Leach shall be and hereby are dismissed in their entirety.
3. Claim 3 is determined in favor of Claimant and against Respondents General Securities Corp. and David S. Miller. Respondents General Securities Corp. and David S. Miller shall pay to the Claimant the sum of Seven Thousand Dollars (\$7,000.00).
4. Each party shall bear its own costs, expenses and attorney's fees incurred in this matter not specifically enumerated herein.

FORUM FEES

Pursuant to Section 43(c) of the NASD Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. ("NASD") shall retain the non-refundable filing fee in the amount of \$120.00 and shall refund the hearing session deposit in the amount of \$400.00 previously deposited with the NASD by the Claimant. Respondents General Securities Corp. and David S. Miller shall pay to the NASD the sum of \$1,100.00 as forum fees in addition to \$400.00 as the postponement fee to be assessed in this matter.

Forum fees are calculated at the rate of \$400.00 per hearing session and \$300.00 for each prehearing conference, if any.

Fees are payable to the National Association of Securities Dealers, Inc.

Dated:

April 25 1992

Mark D. Wasserstrom, Esq.
Presiding Chair
Public Arbitrator

April 27, 1992

Alan D. Roskam, PhD
Public Arbitrator

April 25, 1992

Will B. Tschudy
Industry Arbitrator

NASD decision rendered: May 14, 1992