

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

William C. Godfrey

91-02643

Name of Respondents

Rocky Mountain Securities & Investments, Inc.
and George R. Beall, Jr.

REPRESENTATION OF PARTIES

Claimant was represented by Daniel Wake, Esq. of Coghill & Goodspeed, Denver, Colorado.

Respondent Rocky Mountain Securities and Investments, Inc. was represented by Jeffrey J. Scott, Esq. of Krys, Boyle, Golz, Reich & Freedman, Denver, Colorado.

Respondent George R. Beall, Jr. appeared pro se.

CASE INFORMATION

The Statement of Claim was filed on or about August 27, 1991.

Claimant's Submission Agreement signed on August 19, 1991.

Statement of Answer filed by Respondent, Rocky Mountain Securities and Investments, Inc. on or about October 14, 1991.

Respondent Rocky Mountain Securities and Investments, Inc. Submission Agreement signed on October 10, 1991 by S. James Horning.

Statement of Answer filed by Respondent George R. Beall, Jr. on or about October 14, 1991.

HEARING INFORMATION

The hearing was held on Thursday, April 16, 1992 for two (2) sessions and Friday, April 17, 1992 for two (2) sessions in Denver, Colorado for a total of four (4) sessions.

CASE SUMMARY

Claimant alleged that Respondent George R. Beall, Jr. and Respondent Rocky

Mountain Securities and Investments, Inc. through Beall induced him to invest in speculative stocks by material misstatements and failure to state material facts. Claimant further alleged that Beall made investments which were unsuitable for him in light of his investment objectives, age, and income. Claimant specifically alleged that Beall purchased shares in Canadian Newnorth and not the shares in South African gold mine stocks.

Respondent Rocky Mountain Securities and Investments, Inc. denied the allegations set forth in the Statement of Claim. It also asserted the following affirmative defenses: all transactions were decisions made by the Claimant for his own account; the Claimant has failed to comply with the requirements of Section 11-51-125(3), Colorado Revised Statutes, and is barred from recovery of damages from it; and Claimant has failed to state a claim for relief under the Colorado Securities Act.

Respondent George R. Beall, Jr. denied the allegations against him and stated that other unnamed parties are responsible for the losses incurred by the Claimant.

RELIEF REQUESTED

Claimant requested an award in the amount of \$133,198.09; unspecified damages representing loss of expected income and loss of profit; attorney's fees; expert witness fees; interest and costs.

Respondent Rocky Mountain Securities and Investments, Inc. requested that the Statement of Claim be dismissed and that it be awarded its costs and attorney's fees.

Respondent George R. Beall, Jr. requested that the claims asserted against him be dismissed.

OTHER ISSUES CONSIDERED & DECIDED

Respondent George R. Beall, Jr. did not file with the NASD a properly executed submission to arbitration but is required to submit to arbitration pursuant to Section 12 of the NASD Code of Arbitration Procedure (the "Code") and having answered the claim, appeared and testified at the hearing is bound by the determination of the arbitration panel on all issues submitted.

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. Respondents Rocky Mountain Securities and Investments, Inc. and George R. Beall, Jr. shall be and hereby are jointly and severally liable for and shall pay to the Claimant the sum of \$139,173.18 (One Hundred Thirty Nine Thousand One Hundred

Seventy Three Dollars and Eighteen Cents).

2. Respondents Rocky Mountain Securities and Investments, Inc. and George R. Beall, Jr. shall be and hereby are jointly and severally liable for and shall pay to the Claimant the sum of \$20,000.00 (Twenty Thousand Dollars) as attorneys fees and expert witness fees. This sum is awarded pursuant to the provisions of the Colorado Securities Act.
3. Respondent George R. Beall, Jr. shall be and hereby is liable for and shall pay to the Claimant the sum of \$32,000.00 (Thirty Two Thousand Dollars). This sum is in addition to the amount awarded in paragraphs one and two above.
4. Upon receipt of the amounts set forth in paragraph one above, Claimant William C. Godfrey shall transfer all title and interest in the shares of Canadian Newnorth to Respondent Rocky Mountain Securities and Investments, Inc.

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 \$200.00 and shall refund the hearing session deposit in the amount of \$750.00 previously deposited with the NASD by the Claimant. Respondents Rocky Mountain Securities and Investments, Inc. and George R. Beall, Jr. shall be and hereby are jointly and severally liable for and shall pay to the NASD the sum of \$3,000.00 as forum fees.

Forum fees are calculated at the rate of \$750.00 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 27, 1992

s/s William F. Skewes, Esq.
Presiding Chair
Public Arbitrator

April 26, 1992

John L. Worcester
Public Arbitrator

April 27, 1992

Gerald K. Moore
Industry Arbitrator

NASD decision rendered: May 14, 1992