

## 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 Between

Name of Claimant

Robert Susko

92-00068

Name of Respondents

Pacific Southern Securities Inc.  
Edgel Groves

REPRESENTATION

For Claimant: Allan P. Harris, Esq. of the law firm of Harris, Van Gelderen & Cruz.

For Respondents: The Respondent Edgel Groves appeared pro se. The Respondent Pacific Southern Securities, Inc. was represented by Stuart L. Moore, Esq.; however, counsel withdrew prior to the first hearing session.

CASE INFORMATION

Statement of Claim filed: January 8, 1992.

Claimant's Response to Respondent Pacific Southern Securities, Inc. Motion to Dismiss filed on: April 2, 1992.

Claimant's Submission Agreement signed on: December 20, 1991.

Statement of Answer filed by Respondent Edgel Groves on: February 14, 1992.

Motion to Dismiss filed by Respondent Pacific Southern Securities, Inc. on: March 20, 1992.

Respondent Edgel Groves' Submission Agreement signed on: February 10, 1992.

Statement of Answer filed by Respondent Pacific Southern Securities, Inc. on: February 25, 1992.

Respondent Pacific Southern Securities, Inc.'s Submission Agreement signed on: February 25, 1992.

**HEARING INFORMATION**

Hearing Dates/Sessions: September 29, 1992, 2 Sessions.

Hearing Location: NASD offices located in Atlanta, Georgia.

**CASE SUMMARY**

Claimant alleged that Respondents made misrepresentations to the Claimant; failed to fully inform him of the risks inherent in his investments, failed to make material disclosures concerning his investments, failed to follow Claimant's instructions; never informed themselves of Claimant's ability to appreciate the risk involved in his investments; breached the fiduciary duty owed to the Claimant; engaged in a breach of contract and worked up the price of shares of stock in violation of the securities laws of the State of Georgia. Claimant further alleged Respondents conduct entitled him to recover compensatory and punitive damages, attorneys fees, costs of litigation and entitled him to damages under the federal and Georgia Racketeer Influenced and Corrupt Organizations Act ("RICO").

Respondent Pacific Southern Securities, Inc. maintained Claimant is an accredited investor and well aware of the nature of the securities he bought and the risks inherent in them and Claimant was given the required disclosures regarding his investments. Respondent Pacific Southern Securities, Inc. further maintained the margins were not in violation of any laws, rules or regulations; Claimant's damages are the sole and proximate result of forces outside the control of Pacific Southern Securities, Inc.; Claimant has failed to establish the appropriate predicate for invoking the RICO Act and they are not liable for alleged fraudulent actions contained in the Statement of Claim. Respondent Pacific Southern Securities, Inc. asserted a Motion to Dismiss alleging the Statement of Claim requests relief which is not substantiated by clearly specific relevant facts and circumstances in detail and there are no allegations in the body of the Statement of Claim which relate to the relief sought in the Statement of Claim. In response to the Motion to Dismiss the Claimant maintained Respondent's Motion is totally without merit, contravenes the concept of arbitration, is not authorized under the Code, and is completely frivolous.

Ridgel Groves maintained he informed the Claimant of the risks inherent in the investments and didn't withhold any information from Claimant; made full disclosure to the Claimant regarding his investments and he obtained from the Claimant information concerning his investment objectives, experience and net worth. Respondent Ridgel Groves further maintained the Claimant made his own educated decisions regarding his investments and the Claimant's claims are unsupported.



RELIEF REQUESTED

Claimant requested damages of \$69,090.00 pre and post judgment interest, punitive damages plus costs, expenses and disbursements including attorneys' fees. Claimant further requested that Respondent Pacific Southern Securities, Inc.'s Motion to Dismiss be denied.

Respondents Pacific Southern Securities, Inc. requested a judgement against the Claimant dismissing the complaint with prejudice plus costs and expenses incurred for expert witnesses, attorneys' fees and for such other relief as the arbitrators deem appropriate.

Respondent Edgel Groves requested a dismissal of all claims against him.

OTHER ISSUES

Subsequent to the hearings in this matter the Respondent Pacific Southern Securities, Inc. requested it be permitted to submit additional documentation containing defenses to Claimant's Statement of Claim. The arbitration panel considered the request and ruled that it be denied.

AWARD

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

1. The Respondents be and hereby are liable jointly and severally and shall pay to the Claimant the sum of \$38,795.00 interest specifically excluded.
2. The Claimant's request for punitive damages is denied.
3. Each party shall bear their respective costs including attorneys' fees.

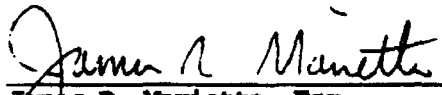
FORUM FEES


Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed:

2 Sessions X \$500.00 = \$1,000.00 minus hearing session deposit of \$500.00 = net \$500.00 due.

The Claimant be and hereby is liable and shall pay to the NASD the sum of \$500.00 to represent forum fees.

ARBITRATOR SIGNATURES

  
James R. Marietta, Esq.  
Public Arbitrator

  
Jere W. Goldsmith, IV  
Industry Arbitrator

  
Russell P. Shoaler  
Public Arbitrator

Date of Decision: November 17, 1992