

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Name of Claimants

Alfred Ronald Daniell, Mark Alexander,
Tommy Gore and Paul Gudat

and

92-00287

Name of Respondent and Third Party Claimant

Southwest Securities, Inc.

Name of Respondent

T.L. Smith Securities, Inc.

and

Name of Third Party Respondent

Metroplex VJ Income Partners I and
Frederick E. Jury

REPRESENTATION OF PARTIES

Claimants were represented by Warren Gould, Esq. and Janna Ward Clarke, Esq. of Gould, Broude & Nelson, P.C., Fort Worth, Texas.

Respondent Southwest Securities, Inc. was represented by Robert Travis, Esq. and Barbara Heptig, Esq. of Cantey & Hanger, Fort Worth, Texas.

Respondent Thad Smith Securities, Inc. was represented by Robert B. Crotty, Esq. of McKool Smith, P.C., Dallas, Texas.

CASE INFORMATION

The Statement of Claim was filed on or about January 27, 1992. Claimants' Submission Agreement signed on January 3, 1992 by Alfred Ronald Daniell, on January 14, 1992 by Mark Alexander, on January 6, 1992 by Tommy Gore, and on January 6, 1992 by Paul Gudat.

Statement of Answer filed by Respondent, Southwest Securities, Inc. on or about March 10, 1992. Amended Answer and Third Party Claim filed on or about Supplemental Amended Answer and Third Party Claim filed on or about May 18, 1992.

Second Supplemental Amended Answer and Third Party Claim filed on or about May 26, 1992. Respondent Southwest Securities, Inc.'s Submission Agreement signed on March 4, 1992 by Jerome S. Wade.

Statement of Answer filed by Respondent T.L. Smith Securities, Inc. on or about March 6, 1992. Respondent T.L. Smith Securities, Inc.'s Submission Agreement signed on February 7, 1992 by Thad Smith.

HEARING INFORMATION

The hearing was held on Monday, August 31, 1992 for two (2) sessions and Tuesday, September 1, 1992 for two (2) sessions in Dallas, Texas for a total of four (4) sessions.

CASE SUMMARY

Claimants alleged that Frederick E. Jury, with the active participation of Respondents Southwest Securities, Inc. and T.L. Smith Securities made material misrepresentations in connection with the sale of partnership interests in Metroplex VJ Income Partners I. Claimants further alleged that Frederick E. Jury converted their funds to his own use and benefit with the active participation of and negligent supervision by Respondents Southwest Securities, Inc. and T.L. Smith Securities. Claimants specifically alleged that Respondents Southwest Securities, Inc. and T.L. Smith Securities were negligent and failed to adequately monitor the accounts of claimants.

Respondent Southwest Securities, Inc. denied the allegations set forth in the Statement of Claim. Southwest Securities, Inc. specifically denied the allegations that it participated in the scheme alleged by the claimants. Southwest Securities, Inc. further stated that it was merely the clearing broker for the accounts opened by the claimants. The following affirmative defenses were asserted by Southwest Securities, Inc.: contributory negligence, failure to exercise due diligence, and that the claims were barred by the doctrines of estoppel, waiver and ratification.

In its Third Party Claim, Southwest Securities, Inc. alleged that the transactions involved in this matter were apparently discussed with the claimants. Southwest Securities, Inc. further alleged that Frederick Jury converted some, if not all, of the claimants funds to his own use and benefit without the knowledge or authorization of Southwest Securities, Inc.

Respondent T.L. Smith Securities, Inc. denied the allegations asserted against it in the statement of claim. T. L. Smith Securities, Inc. further stated that it had no dealings with and made no representations of any kind to claimants in

connection with their opening of an account or investing of any funds with Frederick Jury. Respondent T.L. Smith Securities, Inc. also asserted the following affirmative defenses: failure to exercise due diligence, claimants did not reasonably rely on any acts or omissions by T.L. Smith Securities, Inc., contributory negligence, and the claims are barred by the doctrines of estoppel, waiver and ratification.

Respondent T.L. Smith Securities, Inc. also set forth additional facts in its' Answer. T.L. Smith Securities, Inc. stated that the NASD had taken disciplinary action against Frederick Jury for the activities complained of in the statement of claim and that no action was taken against T.L. Smith Securities, Inc. by the NASD.

RELIEF REQUESTED

Claimants requested an award in the amount of \$148,906.46, interest and such other and further relief to which they may show themselves justly entitled.

Respondent Southwest Securities, Inc. requested that the claims asserted against it be dismissed and that it be awarded its reasonable attorney's fees.

Respondent T.L. Smith Securities, Inc. requested that the claims asserted against be dismissed in all respects.

OTHER ISSUES CONSIDERED & DECIDED

Metroplex VJ Income Partners I did not submit to arbitration. The arbitrators find that the claimants own the assets of Metroplex VJ Income Partners I.

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. The claims asserted against Respondent Southwest Securities, Inc. shall be and hereby are dismissed in their entirety.

2. Respondent T.L. Smith Securities, Inc. shall be and hereby is liable for and shall pay to the claimants the sum of \$2,197.43 (Two thousand one hundred ninety-seven dollars and forty-three cents).
3. Each party shall bear its own costs, expenses and attorney's fees incurred in this matter not specifically enumerated herein.

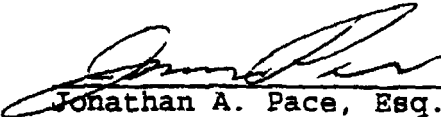
FORUM FEES

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 \$200.00 and shall retain the hearing session deposit in the amount of \$750.00 previously deposited with the NASD by the Claimants. The NASD shall also retain the \$500.00 filing fee paid by Third Party Claimant Southwest Securities, Inc. Respondent Southwest Securities, Inc. shall pay to the NASD the sum of \$2,250.00 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:

Aug 8 1992


Jonathan A. Pace, Esq.
Presiding Chair
Public Arbitrator

Maxel B. Silverberg, Esq.
Public Arbitrator

Ronald M. Roberts, PhD.
Industry Arbitrator

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Dated:

September 14, 1992

Jonathan A. Pace, Esq.
Presiding Chair
Public Arbitrator

Mazel B. Silverberg, Esq.
Mazel B. Silverberg, Esq.
Public Arbitrator

Ronald M. Roberts, PhD.
Industry Arbitrator

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Dated:

Jonathan A. Pace, Esq.
Presiding Chair
Public Arbitrator

Maxel B. Silverberg, Esq.
Public Arbitrator

9/8/92

Ronald M. Roberts, PhD
Industry Arbitrator