

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Jean L. Brunning

NASD Arbitration
No. 92-00879

Name of Respondents

Securities West, Inc.
Daniel R. Licon

REPRESENTATION

For Claimant: Richard Sacks

For Respondent: Shannon L. McDougal - Kessel Young & Logan

CASE INFORMATION

Statement of Claim filed: March 12, 1992

Claimant's Submission Agreement signed on: February 18, 1992

Statement of Answer filed by Respondent, Securities West, Inc. on: May 29, 1992

Respondent, Securities West, Inc.'s Submission Agreement signed on: May 28, 1992

HEARING INFORMATION

Pre-Hearing Conference: None

Hearing Date/Sessions: October 1, 1992 - Two Sessions

Hearing Location: San Francisco, California

CASE SUMMARY

Claimant, Jean L. Brunning (Brunning) alleged that Respondent, Daniel R. Licon (Licon), while employed by Respondent, Securities West, Inc., sold Brunning a \$95,000.00 interest in a limited partnership. It was alleged that the sale was unsuitable for Brunning and was accomplished by misrepresentations made to Brunning by Licon.

Respondent, Securities West, Inc., alleged that Licon was an independent contractor and a registered representative with Securities West at the time the transaction was made. However, it is alleged that Securities West was not at any time involved in the transaction at issue and made no representations to the claimant regarding it.

Securities West, Inc. also alleged that the transaction complained of occurred more than eight years before the claim and is therefore barred by Statutes of Limitations.

RELIEF REQUESTED

Claimants requested compensatory damages of \$145,000.00, \$25,000.00 in recovery fees, punitive damages.

Respondent, Securities West, Inc., requested dismissal of the claim in its entirety.

OTHER ISSUES CONSIDERED & DECIDED

Respondent, Daniel R. Licon, did not file a Uniform Submission Agreement; an answer, nor did he appear at the hearing. The panel determined that Respondent, Licon, had received due notice of the time and the place of the hearing and therefore the panel proceeded with the arbitration of the controversy per Section 29 of the NASD Code of Arbitration Procedure.

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. Respondent, Securities West, Inc.'s, motion to dismiss under the Statute of Limitations is denied.
2. On the merits, each and every claim of Claimant, Jean L. Brunning, against Respondent, Securities West, Inc., is dismissed.
3. Respondent, Daniel R. Licon, is solely liable and shall pay to the Claimant, Jean L. Brunning, the sum of One Hundred Thirty Seven Thousand, Seven Hundred Fifty Dollars and No Cents (\$137,750.00).
4. Claimant's claim for punitive damages is denied.
5. The parties shall each bear their respective costs and fees including recovery/attorneys' fees.

FORUM FEES

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

1. Securities West, Inc. is assessed and shall pay to the NASD the sum of \$1,500.00 representing assessments for two hearing sessions at \$750.00 each.

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

ARBITRATORS

Name

Walter Tick, CPA

Public/Industry

Public Panelist

Industry Panelist

Public Chairperson

Concurring Arbitrators' Signatures

Walter H. Tick

Date of Decision:

10/13/92

Served Oct. 19, 1992