

SUPPLEMENTAL N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Patricia Gasselein

92-01757

Name of Respondent

American Pacific Securities Corp.
Andover Securities, Inc.
The Estate of Sidney P. Griffin, Sr.
Griffin Financial Services

REPRESENTATION

For Claimant, Patricia Gasselein ("Gasselein"): Philip J. Snyderburn, Esq. of Snyderburn, Rishoi and Swann, Winter Park, Florida.

For Respondent, American Pacific Securities Corp: Dennis H. Watkins (see "Other Issues").

For Respondent, Andover Securities, Inc. ("Andover"): Bruce W. Barnes, Esq. of Johnson, Blakely, Pope, Bokor et al, Tampa, FL.

For Respondents, The Estate of Sidney P. Griffin, Sr. and Griffin Financial Services: Bradley J. Davis, Esq. (see "Other Issues")

CASE INFORMATION

Statement of Claim filed: 5/27/92.

Claimant's Submission Agreement signed on: 5/6/92.

Respondents did not submit Statements of Answer nor did they file executed Submission Agreements as required by Sections 12 and 25 of the Code of Arbitration Procedure (see "Other Issues").

HEARING INFORMATION

On August 3, 1995 a pre-hearing telephone conference was held with the Arbitrators.

Hearing Date/Sessions: 8/21/95-Two (2) sessions.

Hearing Location: Tampa, Florida.

CASE SUMMARY

Claimant, alleged that Respondent, American Pacific, was a securities broker dealer that employed Respondent, Griffin from August 1985 until April 1989; that Respondent, Andover, was a Securities broker dealer that employed Griffin from January 1990 through October 1991; that Claimant purchased the investments at issue from Griffin when he was associated with the foregoing brokerage firms; that Griffin solicited Claimant to invest her life savings with him; that Griffin represented to Claimant that she would earn between eight and ten percent per annum through investing in a fund known as the Real Estate Income Program; that this program was in reality a checking account controlled by Griffin; that the funds deposited by Claimant were never invested in any real securities or other investments; that the program was a "Ponzi Scheme" whereby funds invested from new clients were used to make distributions to pre-existing ones; that Griffin represented to Claimant that he could earn income from her through limited partnerships which in fact never existed; that Claimant invested \$40,000.00 of the funds she had initially deposited with Griffin in these partnerships. Claimant contended that Respondents actions constituted the sale of unregistered securities, securities fraud, civil theft, common law fraud, negligence, breach of fiduciary duty and creation of constructive trust. Claimant further stated that Respondents, American, Andover and Griffin Financial were negligent in failing to discover the fraud committed by Griffin and are responsible for the acts of their agent/employee, Griffin under the doctrines of respondeat superior, principal/agent and or master/servant.

Respondent, Andover, in a letter dated October 12, 1992 to the NASD requested that it be dismissed from this arbitration and stated that Claimant is not and never was a customer of Andover and thus there is no agreement to arbitrate between Claimant and Andover. Andover further stated that there are no allegations in the Statement of Claim to the effect that Andover is obligated to arbitrate this claim in as much as there was never a client/broker relationship between Claimant and Andover and that there is no corresponding agreement to arbitrate, either in a customer agreement or through Andover's membership in the NASD.

RELIEF REQUESTED

Claimant requested damages in the amount of \$40,000.00 plus punitive damages pursuant to Section 768.72, Florida Statutes. Claimant also requested treble damages and attorneys' fees pursuant to Section 772.11, Florida Statute.

OTHER ISSUES CONSIDERED & DECIDED

1. This is the second portion of an Award which was issued in this matter on September 24, 1993. A previous hearing was held in this matter on July 16, 1993, in Tampa Florida. During that hearing the Claimant requested that the Panel allow all claims pertaining to Respondent, Andover, to be heard at a separate hearing, thereby bifurcating the proceeding. The Panel agreed to proceed with the hearing at that time with respect to the claims pertaining to Respondents, American Pacific and the Estate of Sidney P. Griffin Sr. (during that hearing (on July 16, 1993) the Claimant voluntarily dismissed Respondent, Griffin Financial Services, without prejudice) and to schedule a future date to hear the claims pertaining to Respondent, Andover. That second hearing was held on August 21, 1995 and this Award is the result of that hearing. At the previous hearing the Panel also agreed to render separate Awards.

2. Respondent, Andover, did not submit an executed Submission Agreement as required under Sections 12 and 25 of the NASD Code of Arbitration Procedure ("Code"). Jurisdiction exists pursuant to Section 12 of the Code and this Panel found that Andover was required to sign a Uniform Submission Agreement and to file a Statement of Answer pursuant to Section 25 of the Code, Andover, being an NASD member firm.

3. 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 originals remain on file with the NASD.

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. Respondent, Andover, is found not liable and, therefore, all Claims against it are hereby dismissed.
2. Claimant's requests for punitive damages, treble damages and attorneys' fees are hereby denied.

OTHER COSTS

The parties shall each bear their own costs and expenses incurred in connection with this proceeding, including attorneys' fees.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the Panel has assessed Forum Fees in the amount of \$1,300.00 (two (2) hearing sessions X \$500.00 + one (1) pre-hearing telephone conference X \$300.00).

1. Claimant is hereby assessed forum fees in the amount of \$650.00 payable to the NASD, Inc.
2. Respondent, Andover, is hereby assessed forum fees in the amount of \$650.00 payable directly to the NASD, Inc.

3. The NASD shall retain the non-refundable filing fee of \$150.00 paid by the Claimant.

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

ARBITRATION PANEL

Concurring Arbitrators' Signatures

Name

Public/Industry

/s/

George S. Coit, Jr., Esq.

Public/Chairman

/s/

John P. Cullem, Esq.

Public/Panelist

/s/

Roderic A. Johnson

Industry/Panelist

Date of Decision: October 24, 1995