

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

Richard D. Piecuch,
Claimant,

v.

No. 93-01539

Financial Architects Securities
Corporation, Jerome William
Morris, Sr., Wedbush Morgan
Securities, Inc., and James Anthony
Geary, Sr.,
Respondents.

REPRESENTATION OF PARTIES

Claimant Richard D. Piecuch was represented by Buddy Rake, Jr., Esq., and Scott M. Zurlot, Esq., of Rake and Downey P.C., Phoenix, Arizona.

Respondents Financial Architects Securities Corporation and Wedbush Morgan Securities, Inc. were represented by Thomas M. Pace, Esq., and Gregory E. Good, Esq., of O'Connor, Cavanaugh, Anderson, Westover, Killingsworth & Beshears, Tucson, Arizona.

Respondent Jerome William Morris, Sr. appeared pro se.

Respondent James Anthony Geary was represented by James Freedman, Esq., Phoenix, Arizona.

CASE INFORMATION

Claimant's Statement of Claim was filed on or about April 16, 1993.

Claimants' Submission Agreement was signed on April 1, 1993.

Respondent Financial Architects Securities Corporation's, Statement of Answer was filed on or about July 2, 1993.

Respondent Wedbush Morgan Securities, Inc.'s Statement of Answer was filed on or about July 26, 1993.

Respondent James Anthony Geary, Sr.'s Statement of Answer was filed on or about July 14, 1993.

Respondent Jerome William Morris, Sr.'s Statement of Answer was filed on or about June 16, 1993.

Respondent Wedbush Morgan Securities, Inc.'s Submission Agreement was signed on July 23, 1993.

Respondent James Anthony Geary, Sr.'s Submission Agreement was signed on July 13, 1993.

Respondent Financial Architects Securities Corporation's Submission Agreement signed on June 29, 1993.

Respondent Jerome William Morris, Sr.'s Submission Agreement was signed on June 16, 1993.

Respondent Wedbush Morgan Securities, Inc. was dismissed from this arbitration prior to the hearing.

HEARING INFORMATION

Pre-Hearing conference date: March 17, 1994. One (1) session.

Hearing dates: March 22, 1994. Two (2) sessions.
March 23, 1994. Three (3) sessions.

Hearing Location: Scottsdale, Arizona

CASE SUMMARY

Claimant, Richard D. Piecuch ("Claimant") made the following allegations against Respondents, Financial Architects Securities Corporation, Jerome William Morris, Sr., and James Anthony Geary, Sr. ("Respondents"): Securities Fraud in violation of A.R.S. Section 44-1991; Churning; Civil Racketeering in violation of A.R.S. Section 13-231, et seq.; breach of fiduciary duty; breach of contract; and negligence. The allegations arose out of transaction in securities more fully discussed at the hearing of this matter, and can be found in the exhibits from the hearing.

In its Answer, Respondent Financial Architect Securities Corporation ("FASC") denied each and every allegation contained in the Statement of Claim. In addition, FASC also made a Motion to Dismiss based on applicable statutes of limitations, asserting that Claimant's claims were filed untimely under Federal, Arizona and California laws.

In his Answer, Respondent Jerome William Morris, Sr. ("Morris") denied each and every allegation contained in the Statement of

Claim.

For his Answer, James Anthony Geary, Sr. (Geary"), unless specifically admitted therein, denied each and every allegation contained in the Statement of Claim. In addition, Geary made a Motion to Dismiss based on applicable statutes of limitations asserting that Claimant's claims were filed untimely under Arizona and California laws.

RELIEF REQUESTED

Claimant requested judgement against Respondents, and each of them, jointly and severally, for:

- a. Compensatory damages in an amount to be proven at the arbitration hearing, but in no event less than the principal amount of \$190,000.00;
- b. Disgorgement of Respondents' improperly charged commissions in an amount to be demonstrated at the arbitration;
- c. Trebling the amount of damages specified in (a) and (b) above, pursuant to A.R.S. Section 13-2314(A);
- d. Punitive damages in an amount to be determined at the arbitration hearing;
- e. Attorney's fees and costs incurred herein;
- f. Pre and Post-judgement interest as permitted by law; and
- g. Such other and further relief as deemed just and proper.

FASC requested the following relief:

- A. That Claimant's Statement of Claim be denied and that Claimant take nothing thereunder.
- B. That FASC be awarded its attorneys' fees and costs incurred herein.
- C. For such other and further relief as is deemed just and proper in the premises.

Morris requested that the Statement of Claim should be summarily dismissed.

OTHER ISSUES CONSIDERED & DECIDED

In their Answers to the Statement of Claim, Respondents raised Motions to Dismiss based on statutes of limitations arguments. On March 1, 1994, Respondent Jerome William Morris, Sr. filed a Motion to Dismiss asserting that Claimant's claims were filed untimely. On March 14, 1994, Respondent Financial Architects Securities Corporation joined Respondent Morris in his motion, and also filed a supplemental memorandum in support of its motion. The arbitrators heard oral argument on the motions at the hearing in

the above-captioned matter. After hearing argument, review of the relevant documents, and deliberation, the arbitrators granted the motions in relation to Claimant's claims of securities fraud, churning, negligence, and punitive damages.

The parties have agreed that the Award in this matter may be executed by 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, Financial Architects Securities Corporation, Jerome William Morris, Sr., and James Anthony Geary, Sr. are, and each of them, jointly and severally liable for and shall pay to Claimant, Richard D. Piecuch the sum of \$61,000.00 as award of compensatory damages.

2. Respondents, Jerome William Morris, Sr., and James Anthony Geary, Sr. are, and each of them, jointly and severally liable for, and shall pay to the Claimant, Richard D. Piecuch, the sum of \$10,000.00 as an additional award of compensatory damages.

3. Respondents, Jerome William Morris, Sr. and James Anthony Geary, Sr. are, and each of them, jointly and severally liable for the rescission, and payment of that certain Corporate Note in the sum of Ten Thousand Dollars (\$10,000.00), dated September 1, 1989 (Claimant's Exhibit 13).

4. Respondents, Jerome William Morris, Sr. and James Anthony Geary, Sr. are, and each of them, jointly and severally liable for, and shall pay to Claimant, Richard D. Piecuch the sum of \$142,000.00 as satisfaction of his claim for RICO damages. The authority for the award of RICO damages is made pursuant to A.R.S. Section 13-231, et seq.

5. Claimant Richard D. Piecuch's claims relating to securities fraud, churning, negligence, and punitive damages are, and each of them, denied and dismissed with prejudice.

OTHER COSTS

Each party shall bear its own costs and expenses associated with this arbitration, including attorneys' fees, except as set forth more fully below.

FORUM FEES

Pursuant to Section 43(c) of the NASD Code of Arbitration Procedure (the "Code"), the following forum fees are assessed:

1 pre-hearing conference session x \$300.00 = \$300.00
5 hearing sessions x \$750.00 = \$3,750.00

Pursuant to Section 43(c) of the Code, the NASD shall retain the nonrefundable filing fee in the amount of \$200.00, and shall RETAIN the hearing session deposit in the amount of \$750.00 previously paid to the NASD by the Claimant.

Additional forum fees in the amount of \$1,100.00 are assessed against Respondent Financial Architects Corporation.

Additional forum fees in the amount of \$1,100.00 are assessed against Respondent Jerome William Morris, Sr.

Additional forum fees in the amount of \$1,100.00 are assessed against Respondent James Anthony Geary, Sr.

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

CONCURRING ARBITRATORS

Dated:

Name:

April 26, 1994

Charles A. Finch/s/
Charles A. Finch
Presiding Chair
Public Arbitrator

April 26, 1994

Glenn Rosenthal/s/
Glenn Rosenthal
Public Arbitrator

April 26, 1994

Richard B. Bequette/s/
Richard B. Bequette
Industry Arbitrator

Date of Service by the NASD: 4-28-94

N.A.S.D. DISCIPLINARY REFERRAL

NATIONAL ASSOCIATION OF SECURITIES DEALERS

Richard D. Piecuch,
Claimant,

v.

No. 93-01539

Financial Architects Securities Corporation,
James Anthony Geary, Sr., and
Jerome William Morris, Sr.,
Respondents.

Hearings were held in Scottsdale, Arizona, on March 22 and 23, 1994.

At the hearing of this matter, certain evidence and testimony were taken by the undersigned panel that lead them to believe that Respondents Jerome William Morris, Sr., and James Anthony Geary, Sr. were involved in private securities activities in violation of the NASD Rules of Fair Practice. Therefore, the arbitrators are requesting that this matter be submitted for disciplinary review.

CONCURRING ARBITRATORS

Dated:

Name:

April 26, 1994

Charles A. Finch/s/
Charles A. Finch
Presiding Chair
Public Arbitrator

April 26, 1994

Glenn Rosenthal/s/
Glenn Rosenthal
Public Arbitrator

April 26, 1994

Richard B. Bequette/s/
Richard B. Bequette
Industry Arbitrator