

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Faith Goldfarb

93-03208

Name of Respondents

Peter Goffin
Comvest Securities, Inc.

REPRESENTATION

For Claimant, Faith Goldfarb ("Goldfarb"): Adam Smith, Investors Arbitration Services, Inc. Boca Raton, Florida.

For Respondent, Peter Goffin ("Goffin"): Charles E. Scarlett, Esq., Boca Raton, Florida.

For Respondent, Comvest Securities, Inc. ("Comvest"): pro se (see "Other Issues").

CASE INFORMATION

Statement of Claim filed: August 17, 1993

Claimant's Submission Agreement signed on July 22, 1993

Statement of Answer filed: November 19, 1993 by Respondent Goffin.
Respondent, Goffin's, Submission Agreement signed on October 14, 1993.

Respondent, Comvest, did not submit a Statement of Answer or execute a Submission Agreement as required by Sections 12 and 25 of the Code of Arbitration Procedure (see "Other Issues").

HEARING INFORMATION

On May 26, 1994 in Fort Lauderdale, Florida, a hearing lasting 3 sessions was conducted.

CASE SUMMARY

Claimant alleged that Respondent, Goffin, while working as a Registered Representative at Comvest, sold to the deceased mother of Claimant securities in VMS Mortgage Investment Fund; that in connection with such sale, the Respondents deliberately or negligently omitted material risk factors of the investment and failed to recommend a suitable investment in light of deceased's age, income, sophistication, risk tolerance and clearly stated objectives. More specifically, the Claimant alleged the following violations in connection with the purchase of said security: (1) Suitability, (2) Fraud, Deceit, and Omission of Material Fact, (3) Florida Statute Chapter 517, (4) Breach of Fiduciary Duty, and (5) Negligent Misrepresentation.

Respondent Goffin denied all allegations of wrongdoing and maintained that the investment was suitable based upon the information that was known or readily available about the investment at the time of the transaction and information that was provided to Goffin by the Claimant's mother concerning her investment objectives and financial background.

Respondent Comvest did not submit a Statement of Answer (see "Other Issues").

RELIEF REQUESTED

Claimant requested an Award of compensatory damages in the amount of \$29,620.98, attorney's fees in the amount of \$14,810.49 and expenses of \$1,020.00.

OTHER ISSUES CONSIDERED & DECIDED

1. Respondent, Comvest, failed to submit an executed Submission Agreement, a Statement of Answer, or to appear at the hearing. This Panel finds that it has jurisdiction pursuant to Section 12 of the NASD Code of Arbitration Procedure because Comvest was an NASD member firm at the time this controversy arose.

2. 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, Comvest, is found liable and shall pay to the Claimant the amount of \$45,451.47.
2. Respondent, Goffin, is found liable and shall pay to the Claimant the amount of \$3,000.00.

OTHER COSTS

Other than the Forum Fees detailed below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount \$1200.00 (three hearing sessions X \$400.00).

1. Claimants are hereby assessed \$400.00. The NASD shall retain the \$400.00 hearing session deposit in full satisfaction thereof.
2. Respondent Goffin is hereby assessed \$400.00 payable to the National Association of Securities Dealers, Inc.
3. Respondent Comvest is hereby assessed \$400.00 payable to the National Association of Securities Dealers, Inc.
4. The NASD shall retain the \$100.00 nonrefundable filing fee previously deposited by Claimants.

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

Concurring Arbitrators' Signatures

Name

Public/Industry

RS/
Ronald Thomas Spann. Esq.

RS/
Amy Dickinson

RS/
Ted Abers

Date of Decision: 7/1/94