

**NATIONAL ASSOCIATION OF SECURITIES DEALERS  
AWARD**

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In the Matter of the Arbitration Between

James H. Sturgeon and Rita M. Sturgeon,

Claimants,

v.

NASD No. 94-679

Loren B. Kayfetz, Personal Financial  
Consultants Securities Corporation and  
Personal Financial Consultants, Inc.,

Respondents.

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***Representation***

For Claimants: Reed Bement, Esq., San Francisco, California

For Respondents: Douglas Martin, Esq., San Francisco, California

***Case Information***

Statement of Claim filed: February 16, 1994

Claimants' Submission Agreement signed: February 26, 1994

Statement of Answer filed on: June 12, 1994

Respondents' Submission Agreement signed on: Loren Kayfetz - June 13, 1994, Personal Financial Consultants Securities Corp. - June 13, 1994. Personal Financial Consultants, Inc. is not subject to National Association of Securities Dealers (NASD) jurisdiction as it is not a member of the association and did not voluntarily submit to its jurisdiction.

***Hearing Information***

Prehearing Conference Date(s)/Sessions: None

1995

Hearing Location: San Francisco, California

### ***Case Summary***

Claimant alleged negligence, breach of fiduciary duty and violations of the NASD Rules of Fair Practice in the purchase of limited partnerships. Claimants alleged that James Sturgeon retired in 1991 and received a lump sum payment of \$410,000, which along with other IRA funds, was the primary source of income for claimants to live on in their retirement. Claimants further alleged that in February 1991, respondents prepared a financial plan, recommending they invest the entire lump sum, plus additional IRA funds, into the limited partnerships.

Respondents denied all allegations of wrongdoing and alleged that respondents recommended claimants not purchase the amount of Royalty Mortgage that James Sturgeon elected to purchase. Respondents further alleged that they memorialized their recommendation and gave James Sturgeon a second opportunity to reconsider the investment when the check arrived. Respondents also maintained that they disclosed the interest rate and foreclosure risk and the illiquidity of the investments.

### ***Relief Requested***

Claimants requested:

1. Compensatory damages of \$565,000, plus an amount to be determined representing a reasonable income and growth on the funds invested;
2. Punitive damages of \$250,000, or as determined by the arbitrators;
3. Attorney's fees.

Respondents requested sanctions for the filing of a frivolous claim, attorney's fees and costs.

### ***Other Issues Considered and Decided***

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, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents Personal Financial Consultants Securities Corporation and Loren B. Kayfetz are jointly and severally liable for and shall pay claimant \$175,000;
2. All other claims are dismissed;
3. The claim for punitive damages is dismissed;
4. The parties shall each bear their respective attorney's fees;
5. The parties shall each bear their respective costs.

### ***Other Costs***

None.

### ***Forum Fees***

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following forum fees are assessed: The National Association of Securities Dealers, Inc., shall refund the \$750 hearing session deposit previously paid by the claimant. Forum fees are assessed against Respondents Personal Financial Consultants Securities Corporation and Loren B. Kayfetz jointly and severally, for \$11,250, calculated as follows:

Total forum fees assessed (15 sessions @ \$750/session)	\$	11,250
Claimant's assessment		0
Claimant's balance due		0
Respondent's joint and several assessment		11,250

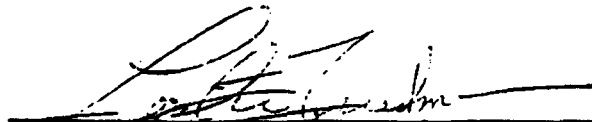
No adjournment fees were assessed.

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

### ***Arbitration Panel***

<b><i>Name</i></b>	<b><i>Public/Industry</i></b>
Lester Friedman	Public
Leonard Greenwold	Public
Robin Berry	Industry

**Concurring Arbitrators' Signatures**

  
Lester Friedman 8/20/95

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Leonard Greenwold

\_\_\_\_\_  
Robin Berry

**Date of Decision:** 8/26/95

**Date Served:** 08/30/95

***Concurring Arbitrators' Signatures***

\_\_\_\_\_  
Lester Friedman

*Leonard Greenwold*  
\_\_\_\_\_  
Leonard Greenwold

\_\_\_\_\_  
Robin Berry

***Date of Decision:*** *8/23/95*

**Date Served:** 08/30/95

***Concurring Arbitrators' Signatures***

\_\_\_\_\_  
Lester Friedman

\_\_\_\_\_  
Leonard Greenwold

*Robin Berry*  
\_\_\_\_\_  
Robin Berry

***Date of Decision: 8/29/95***

**Date Served: 08/30/95**