

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Steve Cornell

94-01842

Name of Respondents

Gerald M. Giffin  
First American Securities, Inc.  
Calton & Associates, Inc.

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**CASE SUMMARY**

In a claim filed with the National Association of Securities Dealers, Inc. on May 17, 1994, Claimant Steve Cornell ("Claimant"), who appeared Pro Se, alleged that Respondents First American Securities, Inc. ("FAS") and its agent, Gerald M. Giffin ("Giffin"), purchased unsuitable investments for the Claimant. Claimant further alleged that the investments purchased in Sunbelt Fish Farms, Inc. bonds were risky, but that Giffin represented them as safe. Claimant contended that Giffin stated that the note was insured and the interest was guaranteed. Claimant further contended that Giffin insisted that the Claimant purchase 10,000 instead of the usual 5,000 quantity of bonds. Claimant alleged that on October 1, 1992, he received a notification by letter of the default of Sunbelt Series A, the default of Series A bonds on February 15, 1992, and that the insurer had filed suit on April 16, 1992, based on false representation. Claimant further alleged that since the defaults occurred before his purchase, Giffin knew or should have known of the risky nature of Sunbelt when he recommended it to Claimant, and that as a result of the above, the Claimant has suffered a loss for which the Respondent should be held liable.

Respondent Gerald M. Giffin ("Giffin"), through his representative, W. Kirby Lockhart, of Hargis, Wood & Lockhart, located in Little Rock, Arkansas, maintained that the Claimant stated that he was interested in finding bonds with high yields and that he was fully aware of the increased risk associated with bonds offering higher yields. Respondent Giffin further maintained that the earliest time that non-public information was disclosed regarding problems with the bonds was during the spring of 1992. Respondent Giffin contended that he exercised proper due diligence and reasonably relied upon the research and information provided by his employer, FAS, in serving the investment interests of the Claimant. Respondent Giffin further contended that the Claimant is a sophisticated investor and was fully aware of the risk of bond investments, and that as a result, he should not be found liable.

Respondent First American Securities, Inc., failed to file an Answer to the Statement of Claim.

**RELIEF REQUESTED**

Claimant Steve Cornell, requested \$10,000 in actual damages.

Respondent Gerald M. Giffin, requested that the claims of the Claimant be dismissed.

**OTHER ISSUES CONSIDERED AND DECIDED**

In accordance with Section 13 of the NASD Code of Arbitration Procedure, the Respondent First American Securities, Inc., was served by regular mail and given an opportunity to respond, which it failed to do. In addition, notice of the identity of the Arbitrator was sent to the Respondent by certified mail and was received as evidenced by the return signature card on file at the NASD.

Pursuant to the By-Laws of the NASD, the Arbitrator determined that Respondents First American Securities, Inc., had notice of the claim, and was required to submit to this arbitration proceeding; and is, therefore, bound by the arbitrator's ruling and determination.

**AWARD**

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Richard L. Basinger, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Steve Cornell, on June 27, 1994 and by the Respondent Gerald M. Giffin, on August 5, 1994, and not by Respondent First American Securities, Inc., as required by Section 12 and 13 of the NASD Code of Arbitration Procedure.

And, the Arbitrator, having considered the proof of the parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Prior to the determination on the merits, Claimant Steve Cornell withdrew the claim as to Respondent Calton & Associates, Inc.
2. The claims of the Claimant Steve Cornell against Respondent Gerald M. Giffin, are dismissed in their entirety.
3. The parties shall bear their respective costs.
4. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Steve Cornell, shall be retained by the NASD, Inc.

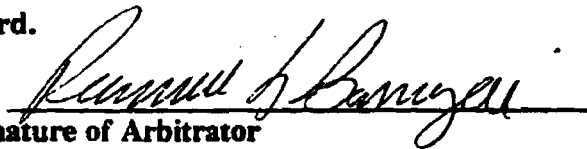
**Affirmation**

STATE OF

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COUNTY OF

I, RICHARD BASINGEN, do hereby affirm upon my oath  
as arbitrator that I am the individual described in and who executed this instrument,  
which is my oath and award.

  
Signature of Arbitrator

Date of Decision: December 29, 1995