

**NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.  
AWARD**

In the matter of the Arbitration Between

Name of Claimant(s)

Richard McGlumphy  
Ronald McGlumphy

v.

NASD Arbitration  
No. 95-01267

Name of Respondent(s)

Foothill Securities, Inc.

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**REPRESENTATION**

For Claimants:        Irwin G. Stein,  
Investors Recovery Service,  
Novato, California

For Respondent:       Douglas B. Martin, Jr., Esq.  
San Francisco, California

**CASE INFORMATION**

Statement of Claim filed: March 13, 1995

Claimants' Submission Agreement signed: January 30, 1995

Statement of Answer filed: May 12, 1995

Respondent's Submission Agreement signed: May 12, 1995

## **HEARING INFORMATION**

The evidentiary hearing was held in San Francisco, California, as follows:

March 12, 1996	-	2 sessions
March 13, 1996	-	1 session

## **CASE SUMMARY**

Claimants alleged breach of fiduciary duty and fraudulent concealment of adverse information with respect to Claimants' shares of Commonwealth Equity Trust, thereby depriving Claimants of the opportunity to protect their investment while it still had substantial market value.

Respondent denied the allegations of wrongdoing, and asserted that the Claimants' investments were made in the early 1980s, after which Claimants never sought advice from Respondent.

## **RELIEF REQUESTED**

Claimants requested damages of approximately \$42,000.

Respondent requested dismissal of all claims.

## **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. All claims asserted by Claimants are denied in their entirety.
2. The parties shall each bear their respective costs, including attorney's fees.

### FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the NASD shall retain Claimants' \$120 non-refundable filing fee, but shall refund their \$400 hearing session deposit.

No forum fees are to be assessed.

### ARBITRATORS

<u>Name</u>	<u>Public / Industry</u>
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Judith Ann Newton

Public Arbitrator

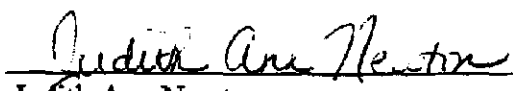
Anthony Ortega

Public Arbitrator

Arthur A. Laibly

Industry Arbitrator

#### Concurring Arbitrators' Signatures

  
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Judith Ann Newton

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Arthur A. Laibly

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Anthony Ortega

Date served: 4/16/96

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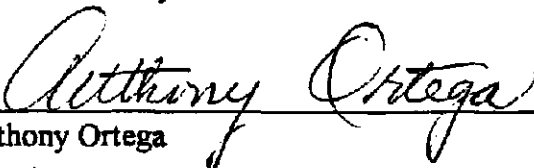
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