

**N.A.S.D. AWARD**

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

In the matter of the Arbitration Between

**Name of Claimants**

Kenneth F. Kearsley; Barbara M. Kearsley; Kenneth F. Kearsley and Barbara M. Kearsley, Trustees for Kearsley Family Trust Dated 6/21/78; Mary K. Bruggman Trust by Barbara M. Kearsley, Trustee; William K. Kearsley; Mary Margaret Kearsley; and Barry Avenue Plating Profit Sharing Plan by Brice Kearsley, III, Plan Committee Member

NASD Arbitration  
No. 95-01936

**Name of Respondent(s)**

Associated Securities Corporation

**REPRESENTATION**

For Claimants:

Timothy D. McGonigle, Esq.  
Ruben & McGonigle  
Los Angeles, California

For Respondent:

Ronald S. Kravitz, Esq.  
Zelle & Larson LLP  
San Francisco, California

**CASE INFORMATION**

Statement of Claim Filed:

April 20, 1995

Amended Statement of Claim Filed:

On or about May 12, 1995

Claimants Kenneth Kearsley and Barbara Kearsley's  
Submission Agreements Signed:

April 17, 1995

Claimant Mary Margaret Kearsley's Submission  
Agreement Signed:

April 9, 1995

Claimant Charles Brice Kearsley, III's Submission  
Agreement Signed:

April 17, 1995

Claimant William K. Kearsley's Submission  
Agreement Signed:

April 18, 1995

Statement of Answer filed by Respondent:

August 4, 1995

### **HEARING INFORMATION**

Pre-Hearing Conference Date / Session:

May 15, 1996 (1 session)  
June 3, 1996 (1 session)

Hearing Date(s) / Session(s):

October 1, 1996 (2 sessions)  
October 2, 1996 (2 sessions)  
October 3, 1996 (2 sessions)  
October 7, 1996 (1 session)

Hearing Location:

Los Angeles, California

### **CASE SUMMARY**

Claimant's alleged Respondent committed fraud, misrepresentation and negligence. Specifically, Claimants asserted that Respondent was aware of Claimants' conservative investment objective yet nevertheless purchased risky limited partnerships for Claimants.

Respondent denied Claimants' allegations in their entirety and asserted that Claimants had actual notice of all risks associated with each investment before they were purchased.

### **RELIEF REQUESTED**

Claimants sought general damages in the amount of \$639,113.00, interest from the date of loss according to proof, punitive damages, costs and attorneys' fees.

Respondent sought dismissal of Claimants' claims in their entirety.

### **OTHER ISSUES CONSIDERED AND DECIDED**

The parties have agreed that the Award in this matter may be executed in either 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 remains 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. Claimants' claims are dismissed in their entirety.
2. Forum Fees are to be split equally between Claimants and Respondent.
3. Each side is to bear its own costs and attorneys' fees.

### **FORUM FEES**

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

One (1) Pre-Hearing Conference @ \$300.00/Session	= \$300.00
One (1) Pre-Hearing Conference @ \$1,000.00/Session	= \$1,000.00
<u>Seven (7) Hearing Sessions @ \$1,000.00/Session</u>	<u>= \$7,000.00</u>
Total Forum Fees Assessed	= \$8,300.00
 Claimants' One-Half Share	 = \$4,150.00
<u>Credit for Hearing Session Deposit</u>	<u>= \$1,000.00</u>
Claimants' Balance Due	= \$3,150.00
 <u>Respondent's One-Half Share</u>	 <u>= \$4,150.00</u>
Respondent's Balance Due	= \$4,150.00

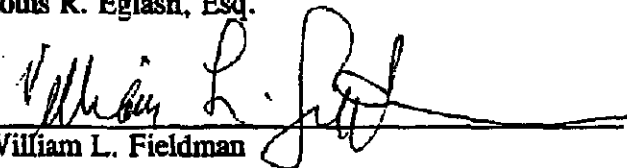
Fees are payable to the National Association of Securities Dealers, Inc.

ARBITRATORS

<u>Name</u>	<u>Public / Industry</u>
Louis R. Eglash, Esq.	Public Arbitrator
William L. Fieldman	Industry Arbitrator
Robert L. Schouweiler, Esq.	Public Arbitrator

Concurring Arbitrators' Signatures

\_\_\_\_\_  
Louis R. Eglash, Esq.

\_\_\_\_\_  
  
William L. Fieldman

\_\_\_\_\_  
Robert L. Schouweiler, Esq.

Date of Decision: \_\_\_\_\_

Date of Service: \_\_\_\_\_

## ARBITRATORS

<u>Name</u>	<u>Public / Industry</u>
Louis R. Eglash, Esq.	Public Arbitrator
William L. Fieldman	Industry Arbitrator
Robert L. Schouweiler, Esq.	Public Arbitrator

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Louis R. Eglash, Esq.

\_\_\_\_\_  
William L. Fieldman

*Robert L. Schouweiler*  
Robert L. Schouweiler, Esq. 10/11/96

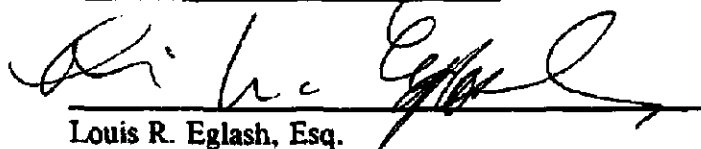
Date of Decision: \_\_\_\_\_

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## **ARBITRATORS**

<u>Name</u>	<u>Public / Industry</u>
Louis R. Eglash, Esq.	Public Arbitrator
William L. Fieldman	Industry Arbitrator
Robert L. Schouweiler, Esq.	Public Arbitrator

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Louis R. Eglash, Esq.

\_\_\_\_\_  
William L. Fieldman

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Robert L. Schouweiler, Esq.

Date of Decision: \_\_\_\_\_

Date of Service: 11/1/96