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N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

Martha Riggins,

Claimant,

v.

No. 95-03208

Bank One Securities Corporation and  
Robert Graves,

© National Association of  
Securities Dealers Inc.

Respondents.

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REPRESENTATION OF PARTIES

Claimant was represented by Richard Cheatham, Esq. and Robert Solomon, Esq. of Holman Robertson Eldridge located in Dallas, Texas.

Respondents Bank One Securities Corporation and Robert Graves were represented by Mathew Hardin, Esq., Associate Counsel, and Mary Spahia-Carducci, Senior Compliance Officer, of Bank One Securities Corporation.

CASE INFORMATION

Statement of Claim was filed on or about July 3, 1995.

Claimant Martha Riggins ("Claimant") Submission Agreement was signed on June 26, 1995.

Statement of Joint Answer was filed by Respondents Bank One Securities Corporation and Robert Graves ("Respondents") on or about September 25, 1995.

Respondent, Bank One Securities Corporation's Submission Agreement was signed on September 22, 1995 by Mathew Hardin, Attorney for Respondent and Associate Counsel.

The NASD has no record of Respondent, Robert Graves, having submitted a Submission Agreement.

HEARING INFORMATION

Pre-Hearing conference date was February 2, 1996 for one (1) session.

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Hearing date was June 11, 1996 for two (2) sessions.

Hearing Location was Dallas, Texas.

#### CASE SUMMARY

Claimant alleged that she invested an IRA account with Respondents Corporation and that Respondents improperly invested her money. Claimant alleged the financial products at issue included The One Group Large Company Growth Fund, The One Group Disciplined Value Fund and The One Group International Equity Index Fund ("the Funds"). Specifically, Claimant alleged causes of action including: Unsuitability; Common Law Negligence; NASD "Know your Customer Rule", Rules of Fair Practice, Article 3, Section 2; Negligent Recommendation; Securities Fraud; Negligent Misrepresentation; Texas Deceptive Trade Practices-Consumer Protection-Act; Texas Fraud; The Racketeer Influenced and Corrupt Organizations Act; Breach of Fiduciary Duty; and Failure to Supervise.

- Respondents alleged that they complied with the stated investment objectives of the Claimant and made full disclosure of all risks, fees and sales charges associated with the investing into the Funds. The Respondents further alleged that Claimant knowingly, voluntarily entered into an agreement with Respondents to purchase shares of the Funds after receiving full and clear disclosures. Respondents denied any negligence and the allegations of the Claimant's Statement of Claim. The Respondents submitted that they are not liable to Claimant for any monetary damages, whether compensatory, punitive or otherwise.

#### RELIEF REQUESTED

Claimant requested actual damages in the amount of \$7,224.27, interest at 10% through the date of payment, reasonable attorneys' fees; costs; additional damages under the Texas Deceptive Trade Practices Act; triple of all compensatory damages awarded and punitive damages of at least an additional 100%.

Respondents requested that the Statement of Claim be dismissed and that it recover its costs and fees expended in defending this matter.

#### OTHER ISSUES CONSIDERED & DECIDED

Upon review of the file and the representations made on behalf of the Claimant, the panel has determined that Respondents had been properly served with the Statement of Claim pursuant to Sections 13 and 25 of the Code of Arbitration Procedure (the "Code"). The panel also determined that Respondents had received due notice of the hearing as required under Section 26 of the Code, and that the

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arbitration of the matter would proceed pursuant to Section 29 of the Code.

Respondent Robert Graves did not file with the NASD a properly executed submission to arbitration but is required to submit to arbitration pursuant to Section 12 of the Code and, having answered the claim, appeared and testified at the hearing and **having** executed a written account agreement to arbitrate any dispute arising out of the relationship of the parties, is required to submit to arbitration and therefore is bound by the determination of **the panel** on all issues submitted.

The parties have agreed that the Award in this matter may be executed by 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). That the Respondents Bank One Securities Corporation and Robert Graves are jointly and severally liable for and shall pay to the Claimant Martha **Riggins \$7,224.27** in compensatory damages and interest thereon at the statutory rate beginning on March 20, 1995;

(2). That the Respondents Bank One Securities Corporation and Robert Graves are jointly and severally liable for and shall pay to the Claimant Martha **Riggins \$7,500.00** as attorneys fees;

(3). That other than forum fees which are addressed below, all relief requests not specifically awarded are hereby denied.

#### **FORUM FEES**

Pursuant to Section 43 (c) of the Code, the following forum fees are assessed: One (1) pre-hearing conference sessions x \$300.00 = \$300.00 and Two (2) hearing sessions x \$400.00 = \$800.00 for a total of **\$1,100.00** less the \$400.00 hearing deposit previously paid by Claimant for a total due the NASD of \$700.00.

Pursuant to Section 43(c) of the Code, the NASD shall retain the nonrefundable filing fee in the amount of \$100.00, and shall retain the hearing session deposit in the amount of \$400.00 previously paid to the NASD by the Claimant. Pursuant to Section 45 of the Code the NASD shall retain the member surcharge in the amount of

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\$200.00 previously deposited by the Claimant.

The remaining forum fees due the NASD in the amount of \$700.00 are assessed jointly and severally against the Respondents Bank One Securities Corporation and Robert Graves. In addition, the Respondents are jointly and severally liable and shall reimburse Claimant Martha **Riggins** the \$400.00 hearing session deposit previously paid by her.

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

**CONCURRING ARBITRATORS**

Dated: .

Name:

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/s/ Raymond Mirrer, Esq.  
Raymond Mirrer, Esq.  
Presiding Chair  
Public Arbitrator

\_\_\_\_\_

/s/ Edmund R. Yates  
Edmund R. Yates, Esq.  
Public Arbitrator

7/24/96

/s/ Kevin R. Reynolds  
Kevin R. Reynolds  
Industry Arbitrator

Date of Service by the **NASD:7-31-96**