

N.A.S.D. STIPULATED AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Names of Claimants

Phillip N. & Judith E. Sublett

95-03729

Name of Respondents

Charles J. Givens  
Kenneth B. Cobb, II  
Jack W. Dicks  
Charles C. Smith  
Delta First Financial, Inc.

REPRESENTATION

For Claimants, Phillip N. & Judith E. Sublett ("the Subletts"): Neal J. Blaher, Esq. of Orlando, Florida.

For Respondent, Charles J. Givens, Jr. ("Givens"): Steven R. Brownstein, Esq. of Semet, Lickstein, Morgenstern et al, Coral Gables, Florida.

For Respondents, Delta First Financial, Inc. ("Delta"), Jack W. Dicks ("Dicks"), Charles C. "Buddy" Smith, Jr. ("Smith"), and Kenneth B. Cobb, II ("Cobb"): See ("Other Issues")

CASE INFORMATION

Statement of Claim filed: 8/4/95.

Claimant's Submission Agreement signed on: 7/17/95.

Statement of Answer filed by Respondent, Givens on: 10/19/95.

Submission Agreement signed by Respondent, Givens on: 10/3/95.

HEARING INFORMATION

Pre-Hearing Conferences held on: 2/27/96 and 3/7/96 with the Chairman.

### CASE SUMMARY

Claimants alleged that in the fall of 1989, they were in their 50s and that they attended two seminars sponsored by Respondent Givens to obtain some direction on how to safely invest their \$100,000 nest egg and inheritance to generate income to live on; that at the second seminar the Sublets were referred by Givens representatives to Delta First Financial for financial advice where they eventually were advised to place 60% of their savings in two limited partnerships: \$40,000 in Montgomery Income Funds, Ltd. and \$20,000 in an oil and gas partnership (initially an Enex program, but later substituted with New York Life Oil and Gas Net Profits Producing Properties III-D (NYLOG III-D) as Enex apparently had been offered to residents of the Sublett's then home state in violation of that state's securities regulatory requirements). Claimants further alleged that according to the Delta Broker and the prospectus, the Montgomery partnership was personally guaranteed by Givens.

Respondent, Givens denied all allegations of wrongdoing, asserted affirmative defenses and sought dismissal of all claims against them.

### RELIEF REQUESTED

Claimants requested rescission of the purchases of the securities still held by them, compensatory damages of not less than \$35,000, statutory and pre-judgment interest, costs and fees and punitive damages.

Respondent, Givens, requested dismissal of the claims against him.

### OTHER ISSUES CONSIDERED & DECIDED

1. Respondents, Delta, Dicks, Smith and Cobb, previously settled with the Claimants and therefore were not parties to the final arbitration proceeding.

### AWARD

This matter came before the undersigned Arbitrators upon stipulation of the parties to the controversy as set forth in the submission to arbitration. The Arbitration panel, having considered the pleadings and reviewed the attached Stipulation by the parties, has determined in full and final resolution of the issues submitted for determination as follows:

The undersigned Panel hereby consents to the attached Agreement to Stipulate to Arbitration Award and to Entry of Judgment Thereon signed by counsel for the respective parties, and incorporates said Stipulation by reference into this Award.

### OTHER COSTS

None.

NASD STIPULATED AWARD

FORUM FEES

Pursuant to Section 10332(c) (formerly Section 43) of the Code of Arbitration Procedure, the following Forum Fees are assessed-\$600.00 (two pre-hearing telephone conferences X \$300.00)

1. By agreement of the parties, Forum Fees of \$600.00 shall be paid by Respondent, Givens, \$520.00 of which shall be paid directly to the Claimants and the remaining \$80.00 shall be paid to the NASD.
2. The NASD shall retain the \$120.00 non-refundable filing fee and the \$400.00 hearing session deposit paid by the Claimants.
3. The NASD shall retain the \$200.00 non-refundable member surcharge paid by Respondent, Delta.

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

ARBITRATION PANEL

Concurring Arbitrators' Signatures

151  
\_\_\_\_\_  
Jeffrey R. Edwards, Esq.

Public/Chairman

151  
\_\_\_\_\_  
Robert J. Morris, CPA

Public/Panelist

151  
\_\_\_\_\_  
Robert Schwartz

Industry/Panelist

AGREEMENT TO STIPULATE TO ARBITRATION AWARD  
AND TO ENTRY OF JUDGMENT THEREON

THIS AGREEMENT (the "Agreement") is made on the date written below by and between PHILLIP N. SUBLETT and JUDITH E. SUBLETT (the "Subletts") and CHARLES J. GIVENS, JR. ("Givens"), who hereinafter may collectively be known as "the parties," through their duly authorized agents, representatives and counsel, NEAL J. BLAHER for the Subletts and STEVEN R. BROWNSTEIN for Givens.

WHEREAS the Subletts have asserted certain claims against Givens in an arbitration proceeding filed with the National Association Of Securities Dealers, Inc. ("NASD") at Case No. 95-03729 (the "NASD Arbitration"), and Givens has asserted certain defenses in the NASD Arbitration;

WHEREAS the parties desire to resolve all claims between them through a stipulated NASD arbitration award and entry of judgment thereon in a court of competent jurisdiction;

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the acts and deeds performed pursuant hereto, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each of the parties, all parties hereto agree as follows:

1) The parties agree to a stipulated arbitration award in the NASD Arbitration awarding compensatory damages in the amount of \$60,000.00 in favor of the Subletts and against Givens, with all session and other NASD fees and costs assessed against Givens. The form that such stipulated award (hereinafter the "Stipulated Award") is to take is attached hereto, made a part hereof and marked as Attachment A.

2) Givens further agrees to raise no opposition or defenses whatsoever in any court action commenced by the Subletts to have a court of competent jurisdiction enter judgment on the Stipulated Award (hereinafter the "Confirmation Action"). In furtherance of this agreement, Givens agrees and consents to the use of this Agreement as evidence in the Confirmation Action by the Subletts of Givens' consent to entry of judgment on the Stipulated Award. Givens also agrees and consents to, and confers authority upon, his undersigned counsel, Steven R. Brownstein, to accept service of process of any original or subsequent pleadings in the Confirmation Action by regular mail sent to counsel Brownstein's attention in lieu of personal service; to promptly execute and sign any stipulations necessary to expedite the entry of judgment on the Stipulated Award in the Confirmation Action; and, through Givens or any agent or representative acting on his behalf, not to take any action which in any way would delay or hinder the Subletts' attempts to secure entry of judgment by default or by any other means against Givens on the Stipulated Award, including post-judgment interest.

3) The parties hereto acknowledge that this Agreement is made for the purpose of stipulating to an arbitration award and entry of judgment thereon without any admission of liability on the part of any party.

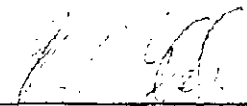
4) It is agreed and understood that this Agreement shall be binding upon and shall inure to the benefit of the parties and their respective heirs, representatives, executors, successors, and assigns.

5) It is agreed and understood that this Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Florida.

By signing below, the undersigned counsel for the parties hereby represent that each has been given and vested with full, complete, express and unconditional authority to enter into this Agreement and all terms set forth herein.

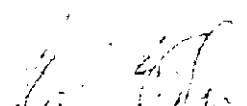
PHILLIP N. SUBLETT

DATED 28 October 1996

By:   
Neal J. Blaher, Esquire  
Florida Bar No. 654050  
Attorney for Phillip N. Sublett

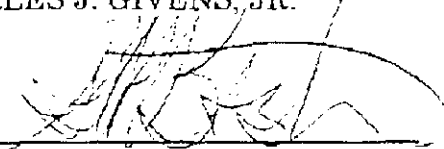
JUDITH E. SUBLETT

DATED 28 October 1996

By:   
Neal J. Blaher, Esquire  
Florida Bar No. 654050  
Attorney for Judith E. Sublett

CHARLES J. GIVENS, JR.

DATED Sept 3 1996

By:   
Steven R. Brownstein, Esquire  
Florida Bar No. 179246  
Attorney for Charles J. Givens, Jr.