

**AWARD**

NASD Regulation, Inc. Office of Dispute Resolution.

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In the Matter of the Arbitration Between

Doug Corley

Claimant,

v.

No. 95-04667

\*Texakoma Financial, Inc., Texakoma Oil & Gas Corp.,  
Dean R. Kennedy, Scott D. Kennedy, and Richard D. Kennedy

Respondents.

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**REPRESENTATION OF PARTIES**

Claimant Doug Corley was represented by G. David Westfall, Esquire, located in Dallas, TX. Doug Corley was

Respondents Texakoma Financial, Inc., Texakoma Oil & Gas Corp., Dean R. Kennedy, Scott D. Kennedy, Richard J. Kennedy, were represented by Will S. Montgomery, Esquire of Jenkins & Gilchrist, located in Dallas, TX. Gilchrist, located in Dallas

**CASE INFORMATION**

Claimant Doug Corley's Statement of Claim was filed on or about October 2, 1995.

Claimant Doug Corley's Submission Agreement was signed on September 27, 1995.

Respondents Texakoma Financial, Inc., Texakoma Oil & Gas Corp., Dean R. Kennedy, Scott D. Kennedy, and Richard J. Kennedy's Joint Statement of Answer and Counterclaim was filed on or about December 14, 1995.

Respondent Texakoma Financial, Inc.'s Submission Agreement was signed on December 7, 1995 by Dean R. Kennedy, President of Texakoma Financial, Inc.

Respondent Texakoma Oil & Gas Corp.'s Submission Agreement was signed on December 7, 1995 by Dean R. Kennedy, President of Texakoma Oil & Gas Corp.

Respondent Dean R. Kennedy's Submission Agreement was signed on December 7, 1995.

Respondent Scott D. Kennedy's Submission Agreement was signed on December 7, 1995.

Respondent Richard J. Kennedy's Submission Agreement was signed on December 7, 1995.

### **HEARING INFORMATION**

A pre-hearing conference was held on June 10, 1996 for one (1) session. The hearing was held on June 20, 1996 for two (2) and June 21, 1996 for two (2) and September 25, 1997 for two (2) sessions in Dallas, Texas for a total of six (6) sessions.

### **CASE SUMMARY**

Claimant Doug Corley ("Claimant") alleged that Respondents Texakoma Financial, Inc., Texakoma Oil & Gas Corp., Dean R. Kennedy, Scott D. Kennedy, and Richard J. Kennedy ("Respondents") induced him to investments in their oil wells based on acts or practices that were false, misleading, or deceptive. Additionally, Claimant alleges that Respondents failed to properly register the securities. Claimant further alleges that Respondents committed these acts knowingly. Claimant made the following legal claims: (1) violations of the Texas Deceptive Trade Practices Act; (2) misrepresentation; (3) fraudulent inducement; (4) fraud; (5) fraud in real estate and stock transaction; (6) exemplary damages; (7) sale of unregistered securities; (8) and breach of NASD rules and regulations.

Respondents denied the allegations set forth in the Statement of Claim. Respondents specifically denied the al stated that the Claimant's Statement of Claim fails to accurately set forth the facts relevant to the Claimant's transactions at issue and fails to disclose material facts disclosing Claimant's own negligence and liability to Respondents. Respondents also asserted affirmative defenses including waiver, estoppel and ratification. Respondents in their Counterclaim alleged that Claimant brought the arbitration in bad faith and for the purposes of harassment, and that pursuant to the indemnification clause found in the Subscription and Customer Agreement, Claimant agreed to indemnify Respondents from misrepresentation or breaches of warranties Claimant made.

### **RELIEF REQUESTED**

Claimant requested relief including: Rescission of the transactions; actual damages as set forth in the Statement of Claim; Treble damages in accordance with the Deceptive Trade Practices Act; Punitive damages in the sound discretion of the arbitrators not to exceed ten times Claimant's actual damages; reasonable attorneys' fees; costs of the arbitration and expert witness fees; pre-hearing and post hearing interest as required by law and such other relief as the arbitrators find appropriate.

Respondents requested that the claims asserted against it be denied in their entirety and that it be awarded its' costs, attorneys' fees and damages brought by Claimant's intentional conduct.

### OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that a handwritten, signed Award may be entered. 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 and the post-hearing submissions, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. That the Statement of Claim is hereby denied in its entirety with prejudice;
2. That the Counterclaim is hereby denied in its entirety with prejudice;
3. That other than forum fees, which are addressed below, all other claims and requests for relief not specifically awarded here are, and each of them, hereby denied with prejudice.

### FORUM FEES

Forum fees are calculated at the rate of \$ 400 per hearing session and \$300 for each pre-hearing conference, if any. There were six (6) hearing sessions x \$ 400 and one (1) pre-hearing session x \$300 = \$2,700 in forum fees. Pursuant to §10332(b) of the NASD Code of Arbitration Procedure (the "Code"), a hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less.

Pursuant to §10332(c) of the Code, the NASD Regulation, Inc. Office of Dispute Resolution shall retain the non-refundable filing fee in the amount of \$400 and shall retain as forum fees the hearing session deposit in the amount of \$100 previously deposited with the NASD by the Claimant.

Pursuant to §10333 of the Code, the NASD Regulation, Inc. Office of Dispute Resolution shall retain the member surcharge fee in the amount of \$200 previously paid by Respondents.

Pursuant to §10332 of the Code, the Respondents are liable for and shall pay the NASD Regulation, Inc. Office of Dispute Resolution its non-refundable filing fee in the amount of \$500 and its hearing session deposit in the amount of \$600 for its Counterclaim.

Additional forum fees are to be split between the parties as follows: \$950 is assessed against Claimant (= \$2,700 total forum fees divided by two - \$400 previously deposited by Claimant) and \$1,850 jointly and severally against Respondents (= \$2,700 total forum fees divided by two + \$500 non-refundable filing fee for its Counterclaim.)

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**Fees are payable to the NASD, Regulation, Inc. Office of Dispute Resolution.**

/s/ Arthur H. Geffen

Dated:  
November 11, 1997

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Arthur H. Geffen, Esquire  
Public Arbitrator, Presiding Chair

/s/ Joan Stearns-Johnsen

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November 11, 1997

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Joan Stearns-Johnsen, Esquire  
Public Arbitrator

/s/ Lyn Lane

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November 11, 1997

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Lyn Lane  
Industry Arbitrator