

AWARD

NASD REGULATION, INC., OFFICE OF DISPUTE RESOLUTION

In the matter of the Arbitration Between

Name of Claimant(s)

Manuel Ybarguen

Arbitration
No. 96-00902

Name of Respondent(s)

Sentra Securities Corporation
Great Western Financial Securities Corporation

REPRESENTATION

For Claimant: Norman R. Allenby, Esq., Hillyer & Irwin, San Diego, California

For Respondent Sentra Securities Corporation: Bradd L. Milove, Esq. and Cynthia M. Schleindl, Esq., Miller Milove & Kob, San Diego, California

For Respondent Great Western Financial Securities Corporation: Loyd P. Derby, Esq. and Michael C. Lieb, Esq., Morgan, Lewis & Bockius LLP, Los Angeles, California

CASE INFORMATION

Statement of Claim filed: February 27, 1996

Opposition to Motion to Dismiss Statement of Claim filed: October 2, 1996

Claimant's Pre-Arbitration Brief filed: May 23, 1997

Claimant's Submission Agreements signed: February 23, 1996 and July 2, 1996

Statement of Answer of Sentra Securities Corporation and Broadcast Capital Corporation filed: June 3, 1996

Pre-Arbitration Brief by Respondents Sentra Securities Corporation and Broadcast Capital Corporation filed: May 16, 1997

Answer and Affirmative Defenses of Great Western Financial Securities Corporation filed: September 18, 1996

Motion to Dismiss Statement of Claim by Respondent Great Western Financial Securities Corporation filed: September 18, 1996

Reply to Claimant's Opposition to Motion to Dismiss Statement of Claim by Respondent Great Western Financial Securities Corporation filed: October 31, 1996

Great Western Financial Securities Corporation's Arbitration Brief filed: May 16, 1997

Respondents' Submission Agreements signed as follows:

Sentra Securities Corporation: May 6, 1996

Great Western Financial Securities Corporation: September 17, 1996

HEARING INFORMATION

Pre-Hearing Conference Date(s)/Session(s):

November 18, 1996 (one session)

May 14, 1997 (one session)

Hearing Date(s)/Session(s): June 2, 1997 (two sessions)

June 3, 1997 (two sessions)

June 4, 1997 (two sessions)

June 5, 1997 (two sessions)

June 9, 1997 (one session)

Hearing Location:

San Diego, California

CASE SUMMARY

Claimant alleged the following claims with respect to his investment in various securities: 1) Violation of California Corporations Code Sections 25110, 25120, 25130 and 25504.1 and 15 U.S.C. Section 77e; 2) Violation of California Corporations Code Sections 25401, 25501, 25504 and 25504.1 and Sections 10b and 20 of the Securities Exchange Act of 1934 and Rule 10B5 of the SEC; 3) Constructive Fraud; 4) Breach of Fiduciary Duties; 5) Negligent Misrepresentation; 6) Violation of NYSE Rules 342, 401 and 405 and NASD Rules of Fair Practice Article 3, Section 2; 7) Negligence; and 8) Breach of Implied Covenant of Good Faith and Fair Dealing.

Respondent Sentra Securities Corporation (Sentra) denied Claimant's allegations of wrongdoing and alleged that Claimant Manuel Ybarguen is a wealthy and sophisticated business man and that Claimant's net worth is at least \$10,000,000.00 and the investments at issue were suitable given his wealth and sophistication. Sentra further alleged that Claimant's misrepresentation claim is based upon the false allegations that the investments were not suitable. Sentra further alleged that the temporary decline in the value of the investments was due to general market conditions existing during the latter part of 1994, and not the peso devaluation, as alleged by Claimant. Sentra further alleged that Claimant alleged technical registration and qualification violation of federal and California law; that these claims lack merit and are inconsistent with the subscription documentation executed by Claimant wherein he acknowledges that the investments were not registered or qualified and were being sold to a non-U.S. resident outside of the United States; that Claimant confirmed in writing that he was not purchasing the investment in the United States; and that in addition to lacking merit, the securities misrepresentation, registration and qualification violation claims are also barred by the statute of limitations. Sentra further alleged that any claim of misrepresentation by Respondent Sentra is inconsistent with the allegations in the Statement of Claim, as the misrepresentations are attributed to William Ponce, who was not an agent of Respondent Sentra; and that the Statement of Claim specifically negates any contention that Respondent Sentra is responsible for any statement made by Mr. Ponce. Sentra also asserted affirmative defenses.

Great Western Financial Securities Corporation (GWFS) alleged that Claimant's claims relate to investments in various Alliance Funds--mutual funds offered and sold by Sentra. GWFS further alleged that GWFS is sued because a GWFS allegedly employee recommended that Claimant not invest all of his funds in securities sold through GWFS, but instead diversify his holdings by also purchasing the Alliance Fund securities offered through Sentra. GWFS further alleged that Claimant's claims are wholly without merit; and that the claims are based on innocuous and sound advice allegedly given by Mr. Ponce, which advice was clearly given outside the scope of his authority for, or employment by, GWFS. GWFS further alleged that even if Mr. Ponce's advice could subject GWFS to liability, the Alliance Fund investments made by Claimant were suitable investments which did not cause Claimant damage. Respondent GWFS also asserted affirmative defenses.

RELIEF REQUESTED

Claimant requested:

1. Compensatory damages equal to the amount of all losses suffered by Claimant, including interest at the legal rate thereon, plus lost interest and profits;
2. Return of all commissions and fees generated by Claimant's Sentra account;
3. Such other damages and/or method of calculating damages as deemed lawful and appropriate by the arbitrators;
4. Punitive damages;
5. Costs and reasonable attorney's fees; and
6. Such other and further relief as the arbitrators deem just and proper.

Respondent Sentra requested:

1. Any and all claims against Sentra be dismissed summarily;
2. Respondents' motions to dismiss be granted;
3. Claimant shall take nothing as to Sentra by Claimant's Statement of Claim;
4. Claimant reimburse Sentra its costs, expenses and reasonable attorney's fees; and
5. Such other relief as the arbitrators deem just and proper.

Respondent GWFSC requested:

1. Dismissal of Claimant's claims with prejudice;
2. GWFSC's motion to dismiss be granted;
3. Claimant shall take nothing from GWFSC by virtue of Claimant's Claim;
4. Claimant reimburse GWFSC its costs, expenses and reasonable attorney's fees; and
5. Such other relief as the arbitrators deem just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

On or about July 26, 1996, Great Western Bank's representative advised that Great Western Bank declined to voluntarily submit to NASD Regulation, Inc. (NASDR) jurisdiction.

On or about November 18, 1996, the panel of arbitrators reviewed and considered the positions of the parties relative to the Motion to Dismiss filed by Great Western Financial Securities Corporation. The panel denied the Motion.

Prior to the hearing, Claimant dismissed Broadcast Capital Corporation.

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 originals remain on file with NASDR.

AWARD

After considering the pleadings and arbitration briefs, 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 by Claimant, including the claim for punitive damages, are dismissed.
2. The parties shall each bear their respective costs including attorney's fees.

FINDINGS

The panel finds that the Claimant cannot prevail and therefore cannot recover any damages, because none were found to exist.

The panel also finds that reasons exist and testimony was presented that indicates that Sentra Securities Corporation and Great Western Financial Securities Corporation and their respective employees engaged in actions which the panel believes constitute a violation of the Association's rules and/or federal securities laws.

FORUM FEES

Pursuant to Section 10332(c) of the Code of Arbitration Procedure, the following forum fees are assessed: The NASDR shall retain the \$1050.00 hearing session deposit previously deposited by the Claimant. Forum fees shall be split between the parties and are calculated as follows:

Two pre-hearing sessions @ \$300.00/session	=	\$ 600.00
Nine hearing sessions @ \$750.00/session	=	<u>\$6,750.00</u>
Total fees assessed	=	\$7,350.00

Claimant's share (one-third)	=	\$2,450.00
Credit for hearing deposit	=	\$1,050.00
Balance due	=	\$1,400.00

Sentra's share (one-third)	=	\$2,450.00
Balance due	=	\$2,450.00

GWFS's share (one-third)	=	\$2,450.00
Balance due	=	\$2,450.00


Fees are payable to NASD Regulation, Inc.

ARBITRATORS

Name Public / Industry

Guenter S. Cohn, Esq.	Public Arbitrator
Fred T. Kallet	Public Arbitrator
Lewis C. Brown	Industry Arbitrator

Concurring Arbitrators' Signatures



Guenter S. Cohn, Esq.

Fred T. Kallet

Lewis C. Brown

Date of Decision: 6/30/97

Date Served: July 9, 1997

Concurring Arbitrators' Signatures

Guenter S. Cohn, Esq.

Fred T. Kallet


Lewis C. Brown

Date of Decision: _____

Date Served: July 9, 1997

Concurring Arbitrators' Signatures

Guenter S. Cohn, Esq.

Fred T. Kallet
Fred T. Kallet

Lewis C. Brown

Date of Decision: 7/1/97

Date Served: July 9, 1997