

**AWARD**

**NASD REGULATION, INC.**

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In the matter of the Arbitration Between

**Name of Claimant(s)**

Grace K. Morgan

Arbitration  
No. 96-01395

**Name of Respondent(s)**

Andover Securities, Inc.  
Gary Bohling

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**REPRESENTATION**

For Claimant: J. Leo Federman, Investors Rights Association, Inc.,  
Santa Barbara, California

For Respondent Andover Securities, Inc.: Stephen A. Russell,  
Andover Securities, Inc., Kansas City, Missouri

For Respondent Gary Bohling: Gary Bohling, Washington Mills, New  
York

**CASE INFORMATION**

Statement of Claim filed: March 26, 1996

Supplement to Statement of Claim filed: April 24, 1996

Claimant's Submission Agreement signed: February 9, 1996

Statement of Answer filed by Respondent Gary Bohling: June 21, 1996

Respondents did not file Submission Agreements. Respondent Andover Securities, Inc. did not file a Statement of Answer. However, Respondents are subject to NASD Regulation, Inc. (NASD) jurisdiction in accordance with Rule 10301 of the NASD Code of Arbitration Procedure.

**HEARING INFORMATION**

Pre-Hearing Conference Date(s)/Session(s): None

Hearing Date(s)/Session(s): October 5, 1998 (one session)

Hearing Location: Salt Lake City, Utah

#### CASE SUMMARY

Claimant alleged fraud and deceit, breach of fiduciary duty, negligence and breach of contract with respect to her investments in Towers Financial Corporation Promissory Notes and Southeastern Franchise Developers L.C.-II. Claimant further alleged violation of various self-regulatory rules including, without limitation, the NASD Rules of Fair Practice, the rules of the New York Stock Exchange, and/or the rules of the American Stock Exchange.

Respondent Gary Bohling denied any misrepresentation, omission, unsuitability, common law fraud and breach of fiduciary duty, as alleged in the Statement of Claim.

#### RELIEF REQUESTED

Claimant requested:

1. Rescission of some or all of the investment interests, as may be applicable;
2. An award of compensatory damages caused as a result of economic losses, less distributions received as a result of the investment, and according to proof at the arbitration hearing and not less than \$37,500.00, exclusive of interest and distributions;
3. Pre-award and post-award interest from the date of each investment at issue, according to proof at the arbitration hearing;
4. Costs of arbitration and expenses, including but not limited to, reasonable attorneys fees, consulting fees, expert witness fees, if applicable and as allowed, and for any other costs deemed reasonable and just;
5. Punitive damages and exemplary damages in a sum sufficient to properly punish and make an example of Respondents and as allowed (See, Mastrobuono v. Shearson Lehman Hutton, Inc. (1995) 115 S.Ct. 1212); said sum to be determined by the panel of arbitrators; and
6. Such other and further relief as the arbitrators deem just and equitable.

Respondent Bohling requested dismissal of Claimant's claims.

#### OTHER ISSUES CONSIDERED AND DECIDED

Respondents did not appear at hearing. The panel determined that Respondents received proper service and notice and ruled to proceed in their absence.

Claimant 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, Claimant 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. Respondents are jointly and severally liable for and shall pay to Claimant the sum of \$37,500.00.

2. Respondents are jointly and severally liable for and shall pay to Claimant the sum of \$400.00 as reimbursement of Claimant's postponement fee assessed in connection with the postponement of the hearing sessions scheduled to take place August 26-27, 1998.

3. Claimant's claims for punitive and exemplary damages are denied.

4. The parties shall each bear their respective costs including attorney's fees.

#### **FORUM FEES**

Pursuant to Rule 10332(c) of the Code of Arbitration Procedure, the following forum fees are assessed: Forum fees are assessed against Respondents, jointly and severally, in the amount of \$400.00, calculated as follows: One hearing session times \$400.00.

Fees are payable to NASD Regulation, Inc.

#### **OTHER FEES**

Pursuant to Rule 10319 of the Code of Arbitration Procedure, Claimant has paid to NASD the \$400.00 postponement fee assessed in connection with the postponement of the August 26-27, 1998 hearing sessions scheduled in this matter.

#### **ARBITRATORS**

Name . . . . . Public / Industry

A. Robert Thorup, Esq.

Public Arbitrator

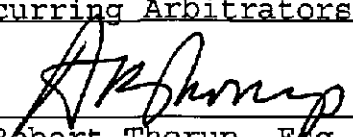
David R. King, Esq.

Public Arbitrator

Richard M. Benton

Industry Arbitrator

Concurring Arbitrators' Signatures

  
\_\_\_\_\_  
A. Robert Thorup, Esq.

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David R. King, Esq.

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Richard M. Benton

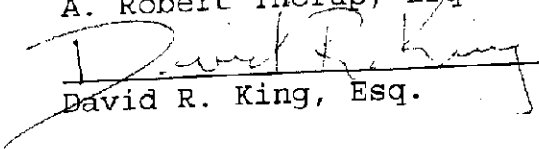
Date of Decision: October 5, 1998

Date Served:

NOV 12 1998

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David R. King, Esq.

\_\_\_\_\_  
Richard M. Benton

Date of Decision: Oct 5, 1998

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NOV 12 1998

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David R. King, Esq.

*Richard M. Benton*  
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Richard M. Benton

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

Date Served:

NOV 12 1998