

## NASD REGULATION, INC. AWARD

NASD Arbitration Mediation

**NASD REGULATION, INC., OFFICE OF DISPUTE RESOLUTION**

In the matter of the Arbitration Between

Name of Claimant

CAROLYN GLOSSER, as Trustee of the CREATIVE APPAREL, INC. PROFIT SHARING PLAN; CAROLYN GLOSSER, as Custodian for KRYSTALLE GLOSSER, a minor; CAROLYN GLOSSER, as Custodian for JOHN ADAM GLOSSER, a minor.

v.

Arbitration No.  
96-02424

Name of Respondent

American National Securities, Inc. (aka Amerinational Financial Services); Brokers Investment Corporation; Kent Perkers, Raymond Henry Niesslein, Micheal Erminio Saldajeno, Norman David Shubert, Daniel Harry Steinberg, Nels Albert Nelson, Jerome Schneider, Al Laubenstein, Steve Jackson, Bruce Attig, Paul Comi; and Peter Provence

**REPRESENTATION**

For Claimants:

Jonathan W. Evans, Esq.  
Attorney at Law  
Los Angeles, California

For Respondent Raymond Niesslein:

Raymond Niesslein  
In pro per  
Stevensville, Montana

For Respondent Nels Nelson:

Nels Nelson  
In pro per  
Hemet, California

For Respondents Jerome Schneider  
and Peter Provence:

Eric John Witmeyer, Esq.  
Attorney at Law  
Los Angeles, California

### **CASE INFORMATION**

Statement of Claim filed:	May 29, 1996
Claimants' Submission Agreement signed:	May 31, 1996
Statement of Answer filed by Respondent Nels Nelson:	July 17, 1996
Statement of Answer filed by Respondent Raymond Niesslein:	July 15, 1996
Statement of Answer filed by Respondents Jerome Schneider and Peter Provence:	July 29, 1996
Respondent Nels Nelson's Submission Agreement signed:	July 16, 1996
Respondent Raymond Niesslein's Submission Agreement signed:	July 11, 1996
Respondent Peter Provence's Submission Agreement signed:	July 27, 1996
Respondent Jerome Schneider's Submission Agreement signed:	July 10, 1996

### **HEARING INFORMATION**

Pre-Hearing Conference Dates/Sessions:	January 30, 1997 (1 session) April 18, 1997 (1 session) October 8, 1997 (1 session) October 9, 1997 (1 session)
Hearing Dates/Sessions:	May 26, 1998 (2 sessions)
Hearing Location:	Los Angeles, California

### **CASE SUMMARY**

Claimants' alleged Respondents committed negligence, unsuitable recommendations, misrepresentation, failure to supervise, failure to maintain diversification in Claimants' account, breach of fiduciary duty and violations of Federal Securities laws and NASD Rules of Fair Practice.

Respondents Nelson, Niesslein, Schneider and Provence denied Claimants' claim in their entirety.

### **RELIEF REQUESTED**

Claimants sought the following relief:

1. Compensatory damages of \$41,463.90;
2. Disgorgement of commissions in the sum that is demonstrated and proved at Arbitration;
3. Reasonable rate of return on the principal sum invested in Claimants' accounts, consistent with returns on what the arbitrators adjudge would have been suitable investments in these particular accounts;
4. Interest at the legal rate of 10% from the date the unsuitable investments were purchased in Claimants' account;
5. Punitive damages in an amount to justify and equitably punish Respondents;
6. Cost of arbitration including expert witness fees, filing fees, and hearing costs; and,
7. Reasonable attorney's fees.

Respondents Niesslein, Schneider and Provence sought dismissal of Claimants' Statement of Claim in its entirety.

Respondent Nelson sought dismissal of Claimants' Statement of Claim in its entirety, attorney's fees, expert fees, costs, and expungement of his CRD record regarding this matter.

### **OTHER ISSUES CONSIDERED AND DECIDED**

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 original remains on file with the NASD Regulation, Inc., Office of Dispute Resolution.

On June 21, 1996, the NASD received notification that Respondent Steve Jackson had passed away.

On August 28, 1996, Claimants dismissed with prejudice, all claims against Respondents Albert Laubenstein and Bruce Attig.

On May 5, 1998, Claimants dismissed with prejudice, all claims against Respondent Michael Saldajeno.

During the arbitration proceeding, Claimants' counsel represented that Respondent American National Securities, Inc. and Respondent Brokers Investment Corporation were defunct entities.

The arbitration panel made no findings regarding Respondents Kent Perkers and dismissed him without prejudice from this matter due to non-service.

The arbitration panel dismissed without prejudice, Respondents Norman Shubert and Daniel Steinberg for lack of proper service.

### **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. Claimants' claims are denied in their entirety.
2. Each party shall bear their own costs, including attorney's fees.
3. Respondent Nelson's CRD record shall be expunged of this arbitration proceeding entirely.

### FORUM FEES

Pursuant to Rule 10332(c) of the Code of Arbitration Procedure, the following forum fees are assessed:

Four (4) Full Panel Pre-Hearing Conferences @ \$400.00/Conference	= \$ 1,600.00
<u>Two (2) Hearing Sessions @ \$400.00/Session</u>	<u>= \$ 800.00</u>
Total Forum Fees Assessed	= \$ 2,400.00

Claimants' Assessment	= \$ 2,400.00
<u>Claimants' Credit for Hearing Session Deposit</u>	<u>= \$ 400.00</u>
Claimants' Balance Due	= \$ 2,000.00

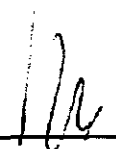
Respondent Jerome Schneider's Assessment for Postponement Fee	= \$ 400.00
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Fees are payable to NASD Regulation, Inc.

**ARBITRATORS**

<b><u>Name</u></b> .....	<b><u>Arbitrators</u></b>
Elliott Finkel, Esq.	Public Arbitrator
Terry A. O'Connell	Public Arbitrator
Larry Maize	Industry Arbitrator

**Concurring Arbitrators' Signatures**

  
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Elliott Finkel, Esq.

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Terry A. O'Connell

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Larry Maize


Date of Service: 9 June 1998

**ARBITRATORS**

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Terry A. O'Connell	Public Arbitrator
Larry Maize	Industry Arbitrator

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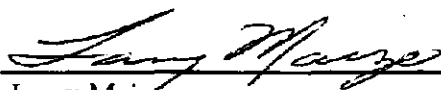
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Elliott Finkel, Esq.

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Terry A. O'Connell

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Larry Maize

Date of Service: 9 June 1998

C5# 96-02424