

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Rita Aken as Trustee,  
of the Fruscalzo-Aken Family Trust

96-02825

Name of Respondents

LaCroix Alexander Financial Corporation  
GPS Consulting Corporation

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CASE SUMMARY

In a claim filed with the National Association of Securities Dealers Regulation, Inc. on July 1, 1996, claimant Rita Aken, as Trustee of the Fruscalzo-Aken Family Trust ("claimant"), who appeared Pro Se, alleged that on November 10, 1994 she invested \$5,000.00 in Three Star Fund 94-1 Joint Venture by Aladdin Energy, Inc. ("Joint Venture"). Claimant further alleged that the Joint Venture was sold to her by respondents LaCroix Alexander Financial Corporation and GPS Consulting Corporation ("respondents"). Claimant also alleged that respondents presented her with fraudulent statements which claimed oil production in two wells of approximately 50 barrels a day. Claimant averred that the factors which made her comfortable with the investment in the Joint Venture included, (a) the information in the memorandum booklet #296 which showed areas rich in oil, (b) the expertise and knowledge of Tim Garson, in managing and evaluating gas and oil projects, (c) the experience of geologist Paul Jackson, who was hired by respondents as an independent advisor, and (d) the financial strength of Aladdin Energy, Inc.

Claimant asserted that she received two checks in early 1995 and knew then that the wells did not produce, as stated. Claimant further asserted that she received a third check along with a statement which reflected zeros, which she questioned. Claimant asserted that about the same time, she received calls from respondents which solicited investments in another Aladdin oil project, which promised a better return than the Joint Venture. Claimant averred that she refused to invest in the new Aladdin project since her broker Peter Epstein was not available to answer her questions. Claimant asserted that respondents circulated additional information regarding the production for which she demanded documentation or her money back. Claimant further asserted that from October 17, 1995 and for thirty days, respondents did not respond to her requests for documentation to verify the oil production. Claimant contended that on May 17, 1996 she received a vague letter from GPS Consulting Corporation which claimed non-responsibility and which indicated that Aladdin Energy, Inc., had provided misleading information. Claimant further contended that the oil and gas expert Tim Garson, had a fiduciary responsibility to investors to verify production and that respondents are liable for the false representation.

Respondents LaCroix Alexander Financial Corporation and GPS Consulting Corporation, through their representative and counsel, Dan R. Waller, Esq., of the law firm Secore & Waller, L.L.P., of Dallas, Texas, maintained that claimant has no reason to complain about the conduct afforded her as a participant in the Joint Venture. Respondents further maintained that claimant invested \$5,000.00 on November 19, 1994 and has received her fair share of distributions made to the Joint Venture by Aladdin Energy, Inc. Respondents also maintained that Aladdin Energy, Inc., is the third party from whom the oil wells in question were acquired by the Joint Venture and with whom the Joint Venture contracted for operation and management of the wells. Respondents contended that the production reports referenced by the claimant was prepared by Aladdin Energy, Inc., which is not an affiliate of or controlled by LaCroix and GPS. Respondents further contended that if Aladdin Energy, Inc., misrepresented the facts concerning production, that they are not responsible for such misrepresentations.

Respondents maintained that they acted responsibly for the benefit and protection of investors by (a) retaining a responsible petroleum engineer to evaluate the viability of the project, (b) negotiating an option to sell the properties back to Aladdin Energy, Inc., in the event funds were not returned to investors, and (c) by giving claimant access to information which will enable her to evaluate whether to participate in the Joint Venture or whether to cast a vote in favor of Aladdin's proposal to drill three new wells for the Joint Venture. Respondents further maintained that claimant voted against the proposal to drill new wells, but was bound by the approval vote of the majority of Joint Venturers. Respondents also maintained that claimant is barred by the theory of laches and estoppel.

#### **RELIEF REQUESTED**

Claimant Rita Aken, as Trustee of the Fruscalzo-Aken Family Trust requested \$5,000.00 in actual damages plus \$4,000.00 in punitive damages.

Respondents LaCroix Alexander Financial Corporation and GPS Consulting Corporation requested that all the claims of claimant be dismissed on the basis that they are without merit, and requested an order for non recovery by claimant for actual or punitive damages.

#### **AWARD**

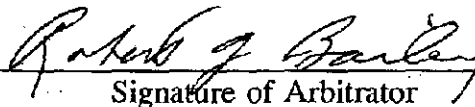
Pursuant to Section 10302 of the NASD Code of Arbitration Procedure, a single Public Arbitrator, Robert Bailey, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the claimant Rita Aken, as Trustee of the Fruscalzo-Aken Family Trust on August 5, 1996, by respondent LaCroix Alexander Financial Corporation on October 17, 1996 and by respondent GPS Consulting Corporation on October 10, 1996.

And, the Arbitrator, having considered the proof of the parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondents LaCroix Alexander Financial Corporation and GPS Consulting Corporation are jointly and severally liable and shall pay to claimant Rita Aken, as Trustee of the Fruscalzo-Aken Family Trust \$5,000.00 in actual damages. Claimant's interest in the Three Star Fund 94-1 Joint Venture shall be terminated.
2. Respondents LaCroix Alexander Financial Corporation and GPS Consulting Corporation are jointly and severally liable and shall pay to claimant Rita Aken, as Trustee of the Fruscalzo-Aken Family Trust, interest at the rate of 8% per annum from November 10, 1994 until payment of the award.
3. The parties shall bear their respective costs.
4. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers Regulation, Inc., by the claimant Rita Aken, as Trustee of the Fruscalzo-Aken Family Trust, shall be retained by the NASD Regulation, Inc. Respondents LaCroix Alexander Financial Corporation and GPS Consulting Corporation are jointly and severally liable and shall pay to the claimant \$150.00 as reimbursement of the filing fee.
5. All other relief requests are denied.

**AFFIRMATION**

I, **ROBERT G. BAILEY**, do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.

  
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Signature of Arbitrator

DATE OF DECISION:      February 5, 1997