

AWARD

NASD REGULATION, INC., OFFICE OF DISPUTE RESOLUTION

In the matter of the Arbitration Between

Name of Claimant(s)

Lee La Rosa

Arbitration
No. 96-03951

Name of Respondent(s)

La Jolla Securities, Inc.
James Mahoney

REPRESENTATION

For Claimant: Jeffrey L. Gaffney, Esq., San Diego, California

For Respondent La Jolla Securities, Inc.: Richard R. Leuthold,
Esq., San Diego, California

For Respondent James Mahoney: James Mahoney, Del Mar, California

CASE INFORMATION

Statement of Claim filed: August 30, 1996

Claimant's case summary and arbitration brief filed: January 15,
1998

Claimant's Submission Agreement signed: May 14, 1996

Statement of Answer filed by Respondent Centex Securities, Inc.:
June 11, 1997

Cross-Claim of Centex Securities, Inc. filed: June 11, 1997

First Amended Answer filed by Respondent Centex Securities, Inc.:
July 31, 1997

Arbitration brief and case summary filed by Centex Securities,
Inc.: January 16, 1998

Statement of Answer filed by Respondent James Mahoney: June 26,
1997

Amended Answer filed by Respondent James Mahoney: October 20, 1997

Respondent James Mahoney's Answer to Cross-Claim of Centex Securities, Inc. filed: October 20, 1997

Respondents' Submission Agreements signed as follows:

La Jolla Securities, Inc. also known as Centex Securities, Inc.: June 10, 1997

James Mahoney: June 24, 1997

HEARING INFORMATION

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

October 9, 1997 (one session)

January 6, 1998 (one session)

Hearing Date(s)/Session(s): January 27, 1998 (two sessions)

January 28, 1998 (one session)

Hearing Location: San Diego, California

CASE SUMMARY

Claimant alleged that La Jolla Securities, Inc. and their former broker James Mahoney made a business of aggressively pushing high risk, speculative stocks. Claimant further alleged that in at least some instances, these stocks were private placements wherein one or both of the Respondents held some interest in the company or in the price of the stock; that this placed those Respondents in a direct conflict of interest with their fiduciary duty toward their clients; and that Mr. La Rosa was such a client and has suffered at the hands of Respondents. Claimant further alleged that their greed and self-interest lead them to recommend investments which were unsound and designed only to generate income for Respondents. Claimant further alleged that Respondents recommended those investments when they were not consistent with Mr. La Rosa's stated investment goals; that Respondent Mahoney defrauded Mr. La Rosa of his funds by failing to ever invest those funds as promised and stealing those funds; and that Respondents made an unauthorized purchase in the account for Mr. La Rosa. Claimant's Claim also alleged various causes of action.

Respondent Centex Securities, Inc. also known as La Jolla Securities, Inc. (Centex) alleged that on August 16, 1994, Centex entered into a branch office agreement with MCM Group, Inc. (MCM); that Respondent James Mahoney was a principal of MCM; and that James Mahoney was licensed with a Series 7 License (General Securities Representative) and a Series 63 License (Blue Sky). Centex further alleged that Thomas Mahoney was a principal of MCM, and he had a Series 24 License (General Securities Principal),

Series 7 License (General Securities Representative) and RG License (Government Securities Representative). Centex further alleged that all contact with Claimant was by James Mahoney and Thomas Mahoney of MCM and alleged that the branch office agreement was terminated on October 31, 1995. Respondent Centex denied Claimant's allegations of wrongdoing and also asserted affirmative defenses.

In its Cross-Claim against James Mahoney, Centex alleged the following causes of action: 1) Indemnification; and 2) Apportionment of Fault.

Respondent James Mahoney denied Claimant's allegations of wrongdoing and also denied the allegations set forth in the damages section and causes of action section of the Statement of Claim. Respondent Mahoney alleged that the above-captioned dispute is an action brought by a sophisticated and active trader in an attempt to disavow unprofitable securities transactions placed by him with full knowledge of all the risks attendant thereto. Mr. Mahoney further alleged that Claimant is a well educated, successful businessman with various business interests and financial backgrounds. Mr. Mahoney further alleged that Claimant discussed each and every transaction with Respondent Mahoney and approved those transactions in advance; and that following each and every transaction Claimant received written confirmations and also received monthly statements of his account. Mr. Mahoney further alleged that Claimant was fully apprised of all information concerning his investments by price, number of shares purchased, the market in which the shares traded and cost; that Claimant was kept apprised throughout as to what gains he made, what losses he incurred and the prices of the securities which he was willingly buying and selling; that Claimant willingly accepted risks in the hope of profits which from time to time he made; and that at all times, Respondent Mahoney executed orders in a timely and efficient manner. Mr. Mahoney also asserted affirmative defenses.

Respondent Mahoney denied, generally and specifically, each and every allegation contained in the Cross-Claim of Centex and further denied that Centex has been or will be damaged at all, or in any sum, by reason of any act or omission on the part of Cross-Respondent Mahoney. Mr. Mahoney also asserted affirmative defenses.

RELIEF REQUESTED

Claimant's Claim requested compensatory damages of at least \$63,388.00; pre-award and post-award interest; costs and expenses including reasonable attorney's fees, and any other costs deemed reasonable and just; punitive and exemplary damages; and such other and further relief as the arbitrators deem just and equitable. At

hearing, Claimant reduced the amount claimed as compensatory damages to \$28,388.00.

Centex requested that Claimant be awarded no damages by way of the Statement of Claim, and that Centex recover its costs, and for such other and further relief as the arbitrators deem just and equitable. Centex further requested that the arbitration award provide for total and complete indemnity for any damages rendered against Centex, and an apportionment of damages to Cross-Respondent, and for costs and attorney's fees.

Mr. Mahoney requested that Claimant's Claim be dismissed in its entirety and requested such other and further relief as the arbitration panel may deem just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

At hearing, Claimant moved to dismiss without prejudice the claim for damages based on Claimant's purchase of the Nite Life investment. Respondent Centex stated that it had no objection to the dismissal. At the request of Respondent Mahoney, Arbitrator Axtmann explained the consequences of such dismissal, and Respondent Mahoney stated that he had no objection to the dismissal. The panel dismissed such claim without prejudice to Claimant's right to pursue the claim in another proceeding.

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 NASD Regulation, Inc. (NASDR).

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. All claims and cross claims of the parties are dismissed on the merits, except that the claim for damages based on the purchase of Nite Life investments is dismissed without prejudice and not on the merits.

2. Claimant's claims for punitive and exemplary damages are dismissed.

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

FORUM FEES

Pursuant to Section 10332(c) of the Code of Arbitration Procedure, the following forum fees are assessed: NASDR shall refund Claimant's \$500.00 hearing session deposit and shall retain Centex's \$600.00 hearing session deposit. Forum fees shall be assessed against Respondents, jointly and severally, in the amount of \$1,700.00, calculated as follows: One pre-hearing session times \$500.00, plus one pre-hearing session times \$300.00, plus three hearing sessions times \$500.00, minus the \$600.00 retained by NASDR.

Fees are payable to NASD Regulation, Inc.

ARBITRATORS

Name Public / Industry

Franklin G. Allen, Esq.

Public Arbitrator

David G. Axtmann, Esq.

Public Arbitrator

Ronald H. Hammershoy

Industry Arbitrator

Concurring Arbitrators' Signatures



Franklin G. Allen, Esq.

David G. Axtmann, Esq.

Ronald H. Hammershoy

Date of Decision: _____

Date Served: 03/11/98

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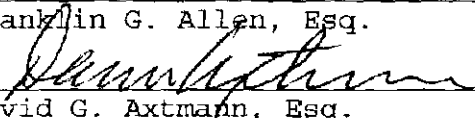
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<u>Name</u>	<u>Public / Industry</u>
Franklin G. Allen, Esq.	Public Arbitrator
David G. Axtmann, Esq.	Public Arbitrator
Ronald H. Hammershoy	Industry Arbitrator

Concurring Arbitrators' Signatures

Franklin G. Allen, Esq.

 2/24/98
David G. Axtmann, Esq.

Ronald H. Hammershoy

Date of Decision: _____

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Franklin G. Allen, Esq.	Public Arbitrator
David G. Axtmann, Esq.	Public Arbitrator
Ronald H. Hammershoy	Industry Arbitrator

Concurring Arbitrators' Signatures

Franklin G. Allen, Esq.

David G. Axtmann, Esq.



Ronald H. Hammershoy

Date of Decision: 2/21/98

Date Served: 03/11/98