

7/19/97

AWARD

NASD Regulation, Inc. Office of Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

Robert & Claudia Beauprez and
Joseph & Maria Beauprez

and

96-04579

Name of Respondent

Jinco Securities, Inc.
Wayne F. Morrison
Jinco Leasing Corp.

REPRESENTATION OF PARTIES

Robert & Claudia Beauprez and Joseph & Maria Beauprez ("Claimants") were represented by James J. Sullivan, Esq., San Francisco, California.

Jinco Securities, Inc. ("Respondent Jinco"), Wayne F. Morrison ("Respondent Morrison") and Jinco Leasing Corp. ("Respondent JLC")(collectively as "Respondents") were represented by Richard K. Rufner, Esq., Englewood, Colorado.

CASE INFORMATION

The Statement of Claim was filed on or about October 15, 1996. Submission Agreements of Claimants Robert & Claudia Beauprez and Joseph & Maria Beauprez were signed on July 15, 1996.

Statement of Answer was filed by Respondents Jinco Securities, Inc., Wayne F. Morrison and Jinco Leasing Corp. on or about December 30, 1996.

HEARING INFORMATION

A pre-hearing conference was held on Friday, September 17, 1997 for one (1) session.

The hearing was held on Thursday, September 16, 1997 for one (1) session, Monday, October 6, 1997 for two (2) sessions, Tuesday, October 7, 1997 for two (2) sessions and Wednesday, October

8, 1997 for three (3) sessions in Denver, Colorado for a total of one (1) pre-hearing and eight (8) hearing sessions.

CASE SUMMARY

Claimants alleged that Respondents engaged in deceptive conduct designed to sell the Claimants Towers Notes. It was alleged that Respondents made the following false statements in order to solicit and induce Claimants to purchase the Tower Notes:

- the Notes were safe;
- the Notes were suitable for investors seeking to expose their capital to minimum risk;
- the Notes were secured by specified assets;
- Towers management had an excellent track record; and
- Towers had purchased insurance sufficient to protect investors against loss of their principal.

Claimants further alleged that the conduct of Respondents constituted breach of the covenant of good faith and fair dealing, breach of fiduciary duty, misrepresentation, and negligence.

Respondents denied the allegations set forth in the Statement of Claim. Respondents specifically denied that they made false or misleading statements to Claimants. It was further denied that there exists between Claimants and Respondents a covenant of good faith and fair dealing or that such covenant was breached by the Respondents. Respondents also stated that fair, adequate and appropriate disclosures were made to the Claimants to enable them to determine their own investment decision. In addition, Respondents stated that the Notes as purchased by the Claimant were consistent with the stated investment objectives of the Claimants. Respondents asserted the following affirmative defenses: the claims are barred by the appropriate statutes of limitations; collateral estoppel; and the claims are barred by the legal doctrines of waiver, estoppel and *res judicata*.

RELIEF REQUESTED

Claimants requested that they be awarded damages against Respondents in the amount of \$197,500 together with interest thereon from the date of their investments, together with the costs of this action, along with such other and further relief as the panel deems just and equitable. Claimants also requested that the panel assess special punitive and exemplary damages against Respondents.

Respondents requested that the claims of Claimants be denied and that such other and further relief be awarded as may be appropriate.

OTHER ISSUES CONSIDERED & DECIDED

Respondents Jinco Securities, Inc. and Wayne F. Morrison did not file with the NASD Regulation, Inc. Office of Dispute Resolution properly executed submissions to arbitration but are required to submit to arbitration pursuant to Rule 10301 of the NASD Code of Arbitration Procedure (the "Code") and having answered the claim and having appeared and testified at the hearing are bound by the determination of the arbitration panel on all issues submitted.

The parties have agreed that the Award in this matter may be executed in 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(s) remain on file with the NASD Regulation, Inc. Office of Dispute Resolution.

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. There is no award in favor of Claimants.

2. Each party shall bear its own costs, expenses and fees incurred in this matter not specifically enumerated herein.

FORUM FEES

Forum fees are calculated at the rate of \$750 per hearing session and \$300 for each pre-hearing conference, if any. There was one (1) session x \$300 and were eight (8) sessions x \$750 = \$6,300 in forum fees. Pursuant to Rule 10332(b) a hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less.

Pursuant to Rule 10332(c) of the NASD Code of Arbitration Procedure, the NASD Regulation, Inc. Office of Dispute Resolution shall retain the non-refundable filing fee in the amount of \$200 and shall retain as forum fees the hearing session deposit in the amount of \$750 previously deposited with the NASD Regulation, Inc. Office of Dispute Resolution by the Claimants Robert & Claudia Beauprez and Joseph & Maria Beauprez. Claimants Robert & Claudia Beauprez and Joseph & Maria Beauprez shall be and hereby are jointly and severally liable for and shall pay to the NASD Regulation, Inc. Office of Dispute Resolution the sum of \$2,775 as additional forum fees. Respondents Jinco Securities, Inc., Wayne F. Morrison and Jinco Leasing Corp. shall be and hereby

are jointly and severally liable for and shall pay to the NASD Regulation, Inc. Office of Dispute Resolution the sum of \$2,775 as the balance due for forum fees.

Pursuant to Rule 10333 of the NASD Code of Arbitration Procedure, the NASD Regulation, Inc. Office of Dispute Resolution shall assess the non-refundable member surcharge in the amount of \$350 against Respondent Jinco Securities, Inc. Fees are payable to the NASD Regulation, Inc. Office of Dispute Resolution.

/s/ John L. Worcester
John L. Worcester
Public Arbitrator, Presiding Chair

Dated: October 24, 1997

/s/ Ellie Brandt
Ellie Brandt
Public Arbitrator

October 21, 1997

/s/ Gordon A. Yale
Gordon A. Yale, CPA
Industry Arbitrator

October 20, 1997