

NASD AWARD

NASD Regulation, Inc.

In the Matter of the Arbitration Between

Name of Claimant

Michael Alexander

and

Case Number

96-04718

Name of Respondent

Linwood Bolles

First Hanover Securities, Inc.

Marion Bass Securities, Inc.

REPRESENTATION OF PARTIES

For Michael Alexander ("Claimant") appeared P. Sterling Kerr, Esq., of Kerr & Associates, located in Las Vegas, Nevada.

For Linwood Bolles ("Bolles") appeared Christian R. Troy, Esq., of Helms, Cannon, Hamel & Henderson, located in Charlotte, North Carolina.

For First Hanover Securities, Inc. ("First Hanover") appeared Charles M. O'Rourke, Esq., sole practitioner, located in Garden City, New York.

For Marion Bass Securities, Inc. ("Marion Bass") appeared John Latham, Esq., of Alston & Bird, located in Atlanta, Georgia.

CASE INFORMATION

Claimant filed the Statement of Claim on October 22, 1996.

Claimant signed the Uniform Submission Agreement on October 22, 1996.

Bolles filed the Statement of Answer on May 23, 1997.

Bolles signed the Uniform Submission Agreement on May 22, 1997.

First Hanover filed the Statement of Answer on February 7, 1997.

First Hanover signed the Uniform Submission Agreement on January 6, 1997.

Marion Bass filed the Statement of Answer on January 31, 1997.

Marion Bass signed the Uniform Submission Agreement on January 13, 1998.

HEARING INFORMATION

Pre-Hearing Conference:	August 28, 1997	One Session
	September 8, 1997	One Session
Hearing Dates:	August 19, 1998	Two Sessions
	August 20, 1998	Two Sessions
	August 21, 1998	One Session

The hearings were held at the Dunhill Hotel in Charlotte, North Carolina.

CASE SUMMARY

Claimant alleged that Bolles, First Hanover, and Marion Bass, collectively referred to as ("Respondents") intentionally misrepresented material facts to induce Claimant's purchase of Telco Communications, Inc. ("Telco") stock. Specifically, Claimant alleged that Bolles misrepresented the nature and quality, suitability, safety and generation of returns on the Telco stock. Claimant further noted that Bolles failed to advise Claimant that Telco was in bankruptcy. The Statement of Claim set forth the following cause of actions: unsuitable trading, breach of fiduciary duty, breached the contract, mismanagement of Claimant's account, sale of unregistered securities and failure to properly supervise Linwood.

Bolles denied the allegations of wrongdoing set forth in the Statement of Claim. Bolles maintained that Claimant was a sophisticated investor with a history of engaging in highly speculative investments. Bolles contended that he followed the instructions of Claimant and that Claimant choose to take a highly speculative approach to investing. As to the sale of unregistered securities, Bolles maintained that he attempted to contact Claimant and advise him of the "repayment efforts" conducted through the State of North Carolina, however, Claimant did not return Bolles telephone calls.

First Hanover also denied the allegations of wrongdoing asserted in the Statement of Claim. First Hanover maintained that it properly supervised Bolles and that it had no knowledge of Bolles improper private investment activities. First Hanover maintained that Bolles was improperly involved in private placements and that this involvement occurred without notifying or obtaining First Hanover's permission. First Hanover also maintained that Claimant never contacted a First Hanover supervisor or compliance officer to complain about the handling of his account by Bolles.

Marion Bass denied the allegations of wrongdoing asserted in the Statement of Claim. Specifically, Marion Bass maintained that Claimant's purchases of Telco were not made while Bolles was employed with Marion Bass. Marion Bass maintained that it did not sell Telco.

Moreover, Marion Bass contended that Claimant was not a client of Marion Bass nor did Claimant execute a Customer Agreement with Marion Bass.

RELIEF REQUESTED

Claimant requested:

1. Compensatory damages in the amount of \$400,000.00, plus statutory interest.
2. Punitive damages in excess of \$10,000.00.
3. Attorneys' fees in excess of \$10,000.00.
4. Arbitration cost in excess of \$10,000.00.

Bolles requested:

1. That the Statements of Claim be dismissed in its entirety.
2. Attorneys fees.
3. Arbitration cost.

First Hanover requested:

1. That the Statement of Claim be dismissed in its entirety.

Marion Bass requested:

1. That the Statement of Claim be dismissed in its entirety.
2. Arbitration cost.

OTHER ISSUES CONSIDERED & DECIDED

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 originals remain on file with NASD Regulation, Inc.

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 against Marion Bass are denied in their entirety.
2. Bolles is liable and shall pay to Claimant compensatory damages in the amount of \$26,595.78. No prejudgement interest is awarded on this amount.
3. First Hanover is liable and shall pay to Claimant compensatory damages in the amount of \$26,595.78. No prejudgement interest is awarded on this amount.
4. Claimant's request for punitive damages is denied in its entirety.
5. That the parties shall bear their respective costs and attorneys' fees except as costs and Forum Fees are addressed below.
6. All other claims for relief not specifically addressed herein are denied in their entirety.

OTHER COST

Pursuant to Rule 10333 of the NASD Code of Arbitration Procedure ("the Code"), First Hanover was assessed a member surcharge in the amount of \$500.00, which has been paid.

Pursuant to Rule 10333 of the Code, Marion Bass was assessed a member surcharge in the amount of \$500.00, which has been paid.

Pursuant to Rule 10319 of the Code, First Hanover and Claimant were equally assessed the cost of the \$750.00 postponement fee, which has been paid.

FORUM FEES

Pursuant to Rule 10332 of the Code, the arbitrators have determined that the NASD Regulation will retain the \$200.00 filing fee deposited by the Claimant.

The arbitrators have assessed the following forum fees:

2 Pre-Hearing Conference	x	\$750.00	=	\$1,500.00
5 Hearing Sessions	x	\$750.00		<u>\$3,750.00</u>

Total Forum Fees

\$5,250.00

Claimant has been assessed \$1,750.00 representing one third of the forum fees assessed. Claimant previously deposited \$1,000.00 with NASD Regulation. In addition, Claimant submitted an overpayment of \$125.00, in satisfaction of the postponement fee. The overpayment has been applied to the outstanding forum fees, therefore, Claimant shall pay to NASD Regulation, Inc., \$625.00 in satisfaction of forum fees.

First Hanover has been assessed \$1750.00 representing one third of the forum fees assessed. First Hanover submitted an overpayment of \$125.00, in satisfaction of the postponement fee. The overpayment has been applied to the outstanding forum fees. Therefore, First Hanover shall pay to NASD Regulation, \$1,625.00 in satisfaction of forum fees.

Bolles has been assessed \$1750.00 representing one third of the forum fees assessed. Therefore, Bolles shall pay to NASD Regulation, \$1750.00 in satisfaction of outstanding forum fees.


Fees are payable to NASD Regulation, Inc.

NASD Regulation, Inc. Office of Dispute Resolution
Arbitration No. 96-04718
Award Page 6 of 8

ARBITRATION PANEL

Simone Sicola - Public Chairperson
Dennis W. Good - Public Panelist
Jack C. Aycock - Industry Panelist

ARBITRATOR'S SIGNATURE



Simone Sicola
Public Chairperson

Date Decision Served by NASD Regulation, Inc.

November 10, 1996

NASD Regulation, Inc. Office of Dispute Resolution

Arbitration No. 96-04718

Award Page 7 of 8

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Simone Sicola - Public Chairperson

Dennis W. Good - Public Panelist

Jack C. Aycock - Industry Panelist

ARBITRATOR'S SIGNATURE



Dennis W. Good
Public Panelist

Date Decision Served by NASD Regulation, Inc.

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Pg 2 of 2

NASD Regulation, Inc. Office of Dispute Resolution
 Arbitration No. 96-04718
 Award Page 8 of 8

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ARBITRATOR'S SIGNATURE

Jack C. Aycock
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 Industry Panelist

Date Decision Served by NASD Regulation, Inc.

November 19, 1998