

**AWARD**

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

In the matter of the Arbitration Between

Name of Claimants

Gerald Schauer and  
June Schauer

v.

Arbitration No.  
96-05239

Name of Respondents

Doug Ashman,  
Pacific Coast Financial Securities, Inc.  
Kirt Wayne Ashman,  
Don Tullio Morandini, and  
Thomas Andrew Gans

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**REPRESENTATION**

For Claimants:

David Liebrader, Esq.  
Law Office of David Liebrader  
Irvine, California

For Respondent Doug Ashman:

No appearance

**CASE INFORMATION**

Statement of Claim filed:

November 19, 1996

First Amended Statement of Claim filed:

February 16, 1997

Claimants' Submission Agreement signed:

November 15, 1996

Statement of Answer filed by  
Respondent Kirt Wayne Ashman:

July 5, 1997

Respondent Kirt Wayne Ashman's  
Submission Agreement signed:

August 21, 1997

### **HEARING INFORMATION**

Pre Hearing Conference Dates / Sessions: April 22, 1998 (1 Session)

Hearing Dates / Sessions: May 18, 1998 (1 Session)

Hearing Location: Los Angeles, California

### **CASE SUMMARY**

Claimants alleged that Respondents suggested unsuitable investments, breached the fiduciary duty owed to Claimants, engaged in fraud, were negligent, made fraudulent representations, omissions and material misrepresentations, and violated California securities laws.

Respondent Kirt Wayne Ashman denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim.

### **RELIEF REQUESTED**

Claimants requested rescission of Beacon Energy limited partnerships, or, in the alternative, compensatory damages in an amount of not less than \$58,634.27, punitive damages, pre-award and post-award interest at the maximum rate allowed by law from the date of the original investment, and arbitration costs, including attorney's fees and expert witness fees.

Respondent Kirt Wayne Ashman requested dismissal of the Claimant's Statement of Claim in its entirety.

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

The parties agreed that the Award in this matter may be executed either in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties agreed to receive conformed copies of the Award while the original remains on file with the NASD Regulation, Inc., Office of Dispute Resolution.

1. Respondent Kirt Wayne Ashman was dismissed by Claimant pursuant to a letter dated May 12, 1998 from David Liebrader.
2. Respondent Don Tullio Morandini filed a Voluntary Petition for Chapter 7 Bankruptcy on May 11, 1998. Pursuant to United States Bankruptcy laws, this arbitration action was stayed as to Respondent Morandini.
3. All claims against Respondent Thomas Gans were withdrawn pursuant to a letter dated January 26, 1998 from David Liebrader.

4. The Arbitration Panel found that service of process was effected on Respondent Doug Ashman.

### **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. Respondent Doug Ashman is liable to and shall pay Claimants the sum of \$69,014.00 plus interest at the rate of 12% per annum from May 18, 1998 until the award is paid in full.
2. The Arbitration Panel found that Respondent Doug Ashman's conduct was fraudulent. Specifically, Doug Ashman's failure to provide prospectuses prior to the Claimants' investment and sale of restricted securities to non-qualified investors were found to be fraudulent.
3. Claimants' request for punitive damages is denied in its entirety.
4. The parties shall each bear their respective costs, including attorney's fees.

### **FORUM FEES**

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


One Pre-Hearing Conference Session @ \$500.00/Session	=	\$500.00
One Hearing Session @ \$500.00/Session	=	\$500.00
Total Fees Assessed Against Respondent Doug Ashman	=	\$1,000.00

Fees are payable to NASD Regulation, Inc.


**ARBITRATORS**

<u>Name</u>	<u>Public / Industry</u>
Lionel S. Heller	Public Arbitrator
Charles A. Graham	Industry Arbitrator
Terry A. O'Connell	Public Arbitrator

**Concurring Arbitrators' Signatures**

  
Lionel S. Heller

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Charles A. Graham

  
Terry A. O'Connell

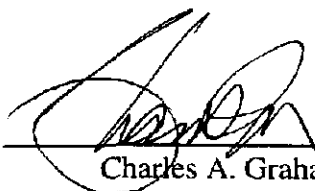
Date of Service: \_\_\_\_\_

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<u>Name</u> .....	<u>Public / Industry</u>
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Charles A. Graham	Industry Arbitrator
Terry A. O'Connell	Public Arbitrator

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Charles A. Graham

  
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Terry A. O'Connell

Date of Service: \_\_\_\_\_

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**Concurring Arbitrators' Signatures**

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Lionel S. Heller

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Charles A. Graham

Terry A. O'Connell  
Terry A. O'Connell

Date of Service: MAY 29, 1998