

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Claimants

William Benton and Dorothy Benton

and

Case Number: 03-04684
Hearing Site: Detroit, Michigan

Respondents

SII Investments, Inc.,
IFG Network Securities, Inc., and
David Gerard Robertson

NATURE OF DISPUTE

Customers v. Members and Associated Person

REPRESENTATION OF PARTIES

William Benton and Dorothy Benton ("Claimants") were represented by Joseph H. Spiegel, Esq., Law Offices of Joseph H. Spiegel, P.C., Ann Arbor, Michigan.

SII Investments, Inc. ("SII") was represented by Gary M. Saretsky, Esq., and Janine Lucas, Esq., Hertz, Schram & Saretsky, P.C., Bloomfield Hills, Michigan.

IFG Network Securities, Inc. ("IFG") and David Gerard Robertson ("Robertson"), hereinafter collectively referred to as "Respondents," were represented by Melvin G. Moseley, III, Esq., Warner Norcross & Judd LLP, Grand Rapids, Michigan.

CASE INFORMATION

The Statement of Claim was filed on or about June 26, 2003. The Submission Agreement of William Benton and Dorothy Benton was signed on or about March 23, 2003.

The Statement of Answer and Motion to Dismiss or Motion for More Definite Statement was filed by SII on or about January 15, 2004. The Submission Agreement of SII was signed on or about January 6, 2004.

The Statement of Answer was filed jointly by IFG and Robertson on or about August 22, 2003. The Submission Agreement of IFG was signed on or about August 22, 2003. The Submission Agreement of Robertson was signed on or about August 19, 2003. IFG and Robertson filed a Brief in Support of their Motion to Dismiss Claimants' Statement of Claim

on or about March 7, 2004. Claimants filed a Response to IFG and Robertson's Brief in Support of Motion to Dismiss on or about March 24, 2005.

Claimants filed a Response to SII's Motion to Dismiss or for a More Definite Statement on or about January 20, 2004. Claimants filed a Supplemental Response to the Motion on or about June 14, 2004. SII filed a Supplemental Brief in Support of its Motion on or about February 9, 2005.

CASE SUMMARY

Claimants asserted the following causes of action: liability against all Respondents under 1934 Act anti-fraud provisions; violations of §§12 and 17 of the Securities Act of 1933, as amended; liability against all Respondents under the 1933 Act anti-fraud provisions; liability against all Respondents under Michigan blue sky law; Respondents' liability for common law fraudulent misrepresentation, negligent misrepresentation and silent fraud; liability against all Respondents for breach of common law fiduciary duty; liability against all Respondents for Michigan Consumer Protection Act violations; and Respondents' liability under RICO, 18 USC 1982(a) and (c). The causes of action related to Claimants' allegations that Respondent Robertson induced William Benton to withdraw money from his Fidelity retirement account at Ford and then converted the money into high risk inappropriate unsuitable mutual funds, annuities and limited partnerships including AIM Demographic Trend Fund Class C, ATEL Capital Equipment Fund VIII Class C, ATEL Capital Equipment Fund IX, and ING Global Communications Fund Class C.

Unless specifically admitted in its Answer, SII denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: Claimants fail to state any claim against SII upon which relief can be granted; Claimants fail to plead any allegation against SII with the requisite particularity; and William Benton assumed the risks associated with the insurance policy purchased while Robertson was registered with SII.

Unless specifically admitted in their Answer, IFG and Robertson denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: Claimants' claims are barred by applicable statutes of limitation; Claimants' claims are barred by laches, waiver, estoppel or equitable estoppel; Claimants ratified and accepted all trades; Claimants fail to state a claim for which relief can be granted; and Claimants' losses were caused by the unforeseeable, intervening, general decline in the equities markets and were not caused by any actions of Respondents.

RELIEF REQUESTED

Claimants requested an award in the amount of \$2,100,000.00 in compensatory damages, rescission, interest, exemplary damages, costs, attorneys' fees, treble damages pursuant to RICO, and such other just and equitable relief the panel deemed proper.

Respondent SII requested that the claims asserted against it be dismissed.

Respondents, IFG and Robertson, requested that the claims asserted against them be dismissed in their entirety and that they be awarded their costs and attorneys' fees, and that Respondents' CRD records be expunged of all references to this matter.

OTHER ISSUES CONSIDERED & DECIDED

SII withdrew its Motion to Dismiss on or about March 29, 2005.

Claimants settled their claims against SII on or about March 30, 2005. The panel did not adjudicate any claims against SII.

The panel denied the Motion to Dismiss filed by Respondents IFG and Robertson.

On June 17, 2005, Respondents IFG and Robertson orally moved for dismissal. The panel denied the motion.

On September 1, 2005, after the close of Claimants' case-in chief, IFG and Robertson orally moved for a directed verdict. The panel denied the motion.

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 NASD Dispute Resolution ("NASD").

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.) Respondents, IFG Network Securities, Inc., and David Gerard Robertson, are jointly and severally liable for and shall pay to Claimants, William Benton and Dorothy Benton, the sum of \$291,475.00 in compensatory damages;
- 2.) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and
- 3.) Any relief not specifically enumerated, including punitive damages and attorneys' fees, is hereby denied with prejudice.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$ 600.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated person at the time of the events giving rise to the dispute. In this matter, the member firms are SII Investments, Inc., and IFG Network Securities, Inc.

Member surcharge = \$ 2,800.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$ 5,000.00

Adjournment Fees

Adjournments requested during these proceedings:

April 12-15, 2005, adjournment by IFG (waived by panel) = \$ 1,200.00

Forum Fees and Assessments

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

Three (3) Pre-hearing sessions with Panel x \$1,200.00 = \$ 3,600.00

Pre-hearing conferences: May 5, 2004 1 session
March 1, 2005 1 session
March 30, 2005 1 session

Thirteen (13) Hearing sessions x \$1,200.00 = \$ 15,600.00

Hearing Dates: June 14, 2005 2 sessions
June 15, 2005 2 sessions
June 16, 2005 2 sessions
June 17, 2005 2 sessions
August 31, 2005 3 sessions
September 1, 2005 2 sessions

Total Forum Fees = \$ 19,200.00

The Arbitration Panel has assessed \$19,200.00 of the forum fees jointly and severally to IFG Network Securities, Inc., and David Gerard Robertson.

Fee Summary

Claimants, William Benton and Dorothy Benton, are jointly and severally liable for:

<u>Initial Filing Fee</u>	= \$ 600.00
<u>Total Fees</u>	= \$ 600.00
<u>Less payments</u>	= \$ 1,800.00
Balance Refunded by NASD Dispute Resolution	= \$ 1,200.00

Respondent, SII Investments, Inc., is liable for:

<u>Member Fees</u>	= \$ 8,550.00
<u>Total Fees</u>	= \$ 8,550.00
<u>Less payments</u>	= \$ 8,550.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent, IFG Network Securities, Inc., is liable for:

<u>Member Fees</u>	= \$ 8,550.00
<u>Total Fees</u>	= \$ 8,550.00
<u>Less payments</u>	= \$ 8,550.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents, IFG Network Securities, Inc., and David Gerard Robertson, are jointly and severally liable for:

<u>Forum Fees</u>	= \$ 19,200.00
<u>Total Fees</u>	= \$ 19,200.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 19,200.00

All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Harvey Frank - Public Arbitrator, Presiding Chair
Richard E. Michel, Ph.D. - Public Arbitrator
Norman A. Samson - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Harvey Frank
Harvey Frank
Public Arbitrator, Presiding Chair

09/02/2005
Signature Date

/s/ Richard E. Michel, Ph.D.
Richard E. Michel, Ph.D.
Public Arbitrator

09/02/2005
Signature Date

/s/ Norman A. Samson
Norman A. Samson
Non-Public Arbitrator

09/02/2005
Signature Date

09/02/2005
Date of Service (For NASD office use only)

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Harvey Frank - Public Arbitrator, Presiding Chair
Richard E. Michel, Ph.D. - Public Arbitrator
Norman A. Samson - Non-Public Arbitrator

Concurring Arbitrators:

Harvey Frank
Harvey Frank
Public Arbitrator, Presiding Chair

9-2-05
Signature Date

Richard E. Michel, Ph.D.
Richard E. Michel
Public Arbitrator

Signature Date

Norman A. Samson
Norman A. Samson
Non-Public Arbitrator

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Public Arbitrator, Presiding Chair



Richard E. Michel, Ph.D.
Public Arbitrator

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