

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Frederick W. & Virginia R. Braastad

90-01310

Name of Respondent(s)

Financial Synergies Equities, Inc.
DeRand Pennington Bass, Inc.
Amir H. Ahanchion, Ph.D
Financial Synergies, Inc.

REPRESENTATION OF PARTIES

Claimants Frederick W. Braasted and Virginia R. Braasted were represented by David W. Pace of Cherry, Morgan & Pace, Webster, Texas.

Respondents DeRand/Pennington/Bass, Inc., Financial Synergies Equities, Inc., and Financial Synergies, Inc. were represented by P. Allan Port of Sewell & Riggs, Houston, Texas.

Respondent Amir H. Ahanchion was represented by Mary E. Baker, Houston, Texas.

CASE SUMMARY

In a Statement of Claim filed with the National Association of Securities Dealers, Inc. ("NASD") on May 9, 1990, Claimants Frederick W. Braastad and Virginia R. Braastad alleged that Amin H. Ahanchion, while acting as an authorized agent or employee of Respondents Financial Synergies Inc., Financial Synergies Advisory, Inc. and Financial Synergies Inc., now known as DeRand/Pennington/Bass, Inc., chose to maximize his commission income by recommending an unsuitable concentration of Claimants' assets into three illiquid real estate limited partnerships. In addition, Respondents allegedly failed to inform the Claimants of the risks inherent in the programs. The three limited partnerships Respondents recommended were Equitec Real Estate Investors Fund XIV, Consolidated Resources Health Care Fund III, and Consolidated Capital Special Trust.

In a Statement of Answer filed with the NASD on August 6, 1990, Respondents Financial Synergies, Inc., Financial Synergies Equities, Inc. and DeRand/Pennington/Bass, Inc. denied the material allegations of the Statement of Claim, stating that: 1) Dr. Braastad was a sophisticated investor who became thoroughly familiar with investment information and accepted the market risks associated with the investments; 2) the losses incurred were the result of a declining market and dramatic changes in the tax laws; 3) the

claims are barred by the Statute of Limitations; 4) the investments were suitable and consistent with Dr. Braasted's investment objectives; 5) Claimants have failed to state a claim upon which relief should be granted; and, 6) the Claimants failed to mitigate their losses.

In a Statement of Answer filed with the NASD on August 3, 1990, Respondent Amir Ahanchion denied the material allegations of the Statement of Claim, stating the investments complained of were suitable based upon the Claimant's objectives in 1984; the downturn in the investments is the result of the tax law changes of 1986, the decline in the real estate market and some unforeseen management problems; and Dr. Braastad was a sophisticated and knowledgeable investor who made his own decisions after being fully informed of the investment factors. In addition, Respondent asserted that any claims which the Braastads have are barred by the applicable statute of limitations and the failure of Claimants to mitigate damages.

RELIEF REQUESTED

Claimants Frederick W. Braastad and Virginia R. Braastad requested entry of an award against Respondents for rescission of the purchase of the programs in question, or, in the alternative, damages in the amount of \$131,115.00 plus interest at a reasonable rate from the date of the investment.

Respondents Financial Synergies, Inc., Financial Synergies Equities, Inc., DeRand/Pennington/Bass, Inc. and Amir H. Ahanchion, Ph.D. requested that the Statement of Claim be dismissed and denied in its entirety.

OTHER ISSUES

Respondent Financial Synergies Advisory, Inc. is not a member of the NASD and did not submit to arbitration. Upon review, the panel determined it did not have jurisdiction over any claims against Financial Synergies Advisory, Inc.

Prior to hearing, Respondents submitted separate motions to dismiss based upon the applicable statute of limitations. The motions, with Claimants' response, were forwarded to the panel for decision. Upon review, the panel determined that the motion would be denied and the hearing continued as scheduled.

PROCEDURAL MATTERS

On February 25 and 28, 1991 in Houston, Texas during a hearing lasting a total of four (4) sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on April 19, 1990 by Claimants Frederick W. Braastad and Virginia R. Braastad on August 3, 1990 by David C. Campbell, Sr. on behalf of Respondent Financial Synergies, Inc. a division of DeRand/Pennington/Bass, Inc. and on June 7, 1990 by Respondent Amir Ahanchion, Ph.D.

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.

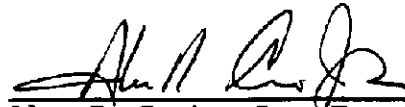
AWARD

The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has decided in full and final resolution of the issues submitted for determination as follows:

1. The Statement of Claim is hereby dismissed and denied in its entirety;
2. Each party shall bear their own costs, including attorney's fees, except for those specifically enumerated herein;
3. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the claim filing fee of \$200.00 and refund the hearing session deposit in the amount of \$550.00 previously deposited with the NASD by the Claimants Frederick and Virginia Braastad. Respondents Financial Synergies, Inc. and Financial Synergies Equities, Inc. now known as DeRand/Pennington/Bass, Inc. are liable for and shall pay to the NASD forum fees in the amount of \$3,000.00.

Dated:

5-13-91



Alan R. Crain, Jr., Esq.
Presiding Chair
Public Arbitrator

Stephen W. Patin
Public Arbitrator

Gregory Keith Courtney
Industry Arbitrator

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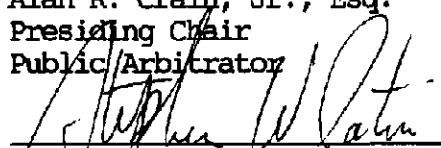
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Presiding Chair
Public Arbitrator

Stephen W. Patin
Public Arbitrator

05/14/91

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Industry Arbitrator