

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Charles A. and Sigrid L Bausback

NASD Arbitration  
No. 91-01516

Name of Respondents

Certified Financial Services

Kenneth Nicolas

Robert Newmaster

John Russell

REPRESENTATION

For Claimant: In Pro Se

For Respondent: Certified Financial Services - H. Thomas Fehn, Esq. of  
Fields, Fehn & Sherwin

Kenneth Nicolas - In Pro Se

Robert Newmaster - In Pro Se

John Russell - In Pro Se

CASE INFORMATION

Statement of Claim filed: May 16, 1991

Claimants' Submission Agreement signed on: June 10, 1991

Statement of Answer filed by Respondent, Certified Financial Services on:  
February 1, 1992

Statement of Answer filed by Respondent, Kenneth Nicolas, on February 10, 1992

Statement of Answer filed by Respondent, Robert Newmaster, on February 26, 1992

Statement of Answer filed by Respondent, John Russell, on November 5, 1991

Respondent, Certified Financial Service's Submission Agreement signed on:  
February 18, 1992

Respondent, Kenneth Nicolas' Submission Agreement signed on: January 13, 1992

Respondent, Robert Newmaster's Submission Agreement signed on: February 10, 1992

Respondent, John Russell's Submission Agreement signed on: November 1, 1991

### HEARING INFORMATION

Pre-Hearing Conference: August 14, 1992 - One Session

Hearing Date/Sessions: August 18, 1992 - One Session

Hearing Location: Los Angeles, California

### CASE SUMMARY

Claimants alleged that respondents sold them unsuitable limited partnership investment when they knew or should have known that said investments involved a high degree of risk and were illiquid.

Respondents alleged that the investment at issue were made more than six years prior to the filing of the claim and are, therefore, not subject to arbitration.

### RELIEF REQUESTED

Claimants requested monetary damages of \$600,000.00 and \$100,000.00 for mental anguish.

Respondents requested dismissal of the claim in its entirety.

### 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 original(s) remain on file with the NASD.

### AWARD

After considering the pleadings, the submission on the motion to dismiss and the oral arguments presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Pursuant to Section 15 of the NASD Code of Arbitration Procedure, the claim of Claimants, Charles A. and Sigrid L. Bausback is ineligible for submission to arbitration in that six years have elapsed from the occurrence or event giving rise to the act or dispute, claim or controversy.
2. The parties shall each bear their respective costs and fees.

### FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed:

The NASD shall retain the \$1,000.00 hearing session deposit previously deposited by the Claimants as an assessment of forum fees for one hearing session.

ARBITRATORS

Name

Norman Cohen

Public/Industry

Public Chairperson

Public Panelist

Industry Panelist

Concurring Arbitrators' Signatures

*Norman Cohen*

DATE SERVED: 09/14/92

Date of Decision: August 18, 1992