



N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Jack F. Bentley

vs.

Case #  
92-00647

Name of Respondent

John R. Devlin

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REPRESENTATION

Claimant, Jack F. Bentley, appeared pro se.

For Respondents, John R. Devlin, Michael L. Michael, Esq. of Tucker Anthony Incorporated.

CASE INFORMATION

Statement of Claim was filed on February 20, 1992.

Claimant's Submission Agreement was signed on February 18, 1992.

Statement of Answer was filed by Respondent on April 7, 1992.

Respondent's Submission Agreement was signed on March 31, 1992.

HEARING INFORMATION

Hearing Date/Hearing Sessions: July 10, 1992 - Two sessions.

Hearing Location: Holiday Inn Turf  
205 Wolf Road  
Albany, NY 12205

CASE SUMMARY

Claimant alleges that Respondent, the manager of Tucker Anthony and R.L. Day, Inc. office in Rome, New York placed his Individual Retirement Account funds of \$14,048.00 into National Bond Fund which comprised of risky junk bonds. Claimant contends that this investment was unsuitable for him and was in violation of NYSE Rule 405. Claimant states that when he transferred his

retirement funds from Upstate Federal into National Securities Bond Fund and that Respondent assured him that the funds would be secure and grow at a minimum guaranteed rate of 9.25% for two years. Claimant further states that he was unaware that interest was not accumulating and that his principal could decline. Claimant contends that he his principal declined to \$12,543.00 when he closed the account. Claimant further alleges that Respondent did not provide him with a prospectus or inform him of any risk or depletion of his funds for the life of the investment.

Respondent denies liability and denies that he made guarantees to Claimant. Respondent alleges that in April 1989, Claimant complained about his purchase of an annuity issued by the Guardian Insurance & Annuity Company and an investment in the National Bond Fund. Respondent states that Tucker Anthony denied responsibility. Respondent further alleges that Claimant complaint filed another complaint with Guardian Insurance which refused to honor his request. Respondent also alleges that Claimant filed another complaint before the Department of Insurance of the State of New York concerning the Guardian annuity and that the Agency declined to assist the Claimant. Respondent contends that because Claimant was officially rebuffed on the Guardian annuity he filed a complaint with the National Association of Securities Dealers, Inc. regarding the National Bond Fund and that the Association rejected his complaint. Respondent contends that the complaints filed by Claimant are inconsistent and that Claimant was given a prospectus.

Respondent contends that he has been Claimant's broker for some twenty years and that Claimant is not a novice investor. Respondent alleges that Claimant has invested several hundred dollars over the years in common stock, bonds, guaranteed annuities, variable annuities, equity funds and bond funds.

#### RELIEF REQUESTED

Claimant requests an award of \$4,223.00, \$1,505.00 of which represent loss of principal and \$2,718.00 represent interest for two years at rate of 9.25%.

Respondent requests that the claim be dismissed in all respects and that Claimant be admonished for his continual abuse of process

#### AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. All claims against Respondent, John R. Devlin, are denied in their entirety.

National Association of  
Securities Dealers, Inc.  
NASD Financial Center  
33 Whitehall Street  
New York, N.Y. 10004  
FAX (212) 858-4389

FORUM FEES

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

1. Forum fees in the amount of \$200.00 for two hearing sessions at \$100.00 per session are assessed and shall be borne equally by the parties;
2. Claimant is further assessed a \$50.00 non-refundable filing fee. Claimant deposited \$150.00 from the NASD and shall receive a credit for that amount.

Fees are payable to the National Association of Securities Dealers, Inc.

Arbitrator's Signature



Joseph Scardino, Esq.  
Sole Public Arbitrator

Executed on

~~Date of Decision:~~

August 27, 1992

Date of Decision: September 2, 1992