

**N.A.S.D. AWARD**

**NATIONAL ASSOCIATION OF SECURITIES DEALERS**

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In the Matter of the Arbitration Between

Name of Claimant(s)

Patricia T. Russell

Case No. 92-01347

Name of Respondent(s)

Marion Bass Securities Corporation  
Bob White  
Marion F. Bass

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**REPRESENTATION**

For Claimant, Patricia T. Russell ("Russell"): Donald S. Hartley.

For Respondents, Marion Bass Securities Corp. ("Bass Securities"), Marion F. Bass ("Bass") and Bob White ("White"): Matthew Joyner, Esq. of Rayburn, Noon & Smith.

**CASE INFORMATION**

Statement of Claim filed on: April 16, 1992. Claimant's Submission Agreement signed on: April 13, 1992.

Respondents' Statement of Answer filed on: June 9, 1992. Respondents' Submission Agreements signed on June 17, 1992 by Bass, and June 18, 1992 by White, and on June 8, 1992 by Robert Brietz on behalf of Bass Securities.

**HEARING INFORMATION**

On April 15 and 16, 1993, in Charlotte, North Carolina, hearings lasting four (4) sessions were conducted.

**CASE SUMMARY**

Claimant alleged that Respondents were liable for violating NASD Rules of Fair Practice by recommending that Claimant withdraw her money from a safe investment and advising that she purchase a certain limited partnership which was illiquid, risky and not suitable for Claimant.

Respondents denied all allegations of wrongdoing and alleged that: the claim fails to state a cause of action; the claim is barred by the Statute of Limitations; the claim fails to meet the requirements of the Federal and North Carolina Rules of Civil Procedure; Claimant was given a prospectus and was advised of the illiquid nature of the investment; the recommendation to sell the CD's was based on the fact that the issuer bank was in financial trouble; and, Respondents acted at all times in good faith.

### **RELIEF REQUESTED**

Claimant requested damages in the amount of \$160,000 for return of her principle, the penalty for early withdrawal of her CD's, the difference in the amount she would have earned and the amount actually earned, lost opportunity and punitive damages.

Respondents requested dismissal of the claim plus costs and attorney's fees.

### **OTHER ISSUES CONSIDERED & DECIDED**

1. Respondents' Motion to Dismiss is hereby denied.
2. 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 originals remain on file with the NASD.

### **AWARD**

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

1. Respondents, Bass Securities, White and Bass, are found liable, jointly and severally, and shall pay to the Claimant the amount of \$109,063, plus interest at the legal rate of 8% per annum from April 16, 1993 until paid.
2. Upon receipt of the amount specified in paragraph #1, Claimant shall execute, or cause to be executed, any documents necessary to transfer all her right, title and interest in Bass Mortgage Income Fund I, certificate #10220 (representing 10,000 units) to Respondents.
3. Claimant's request for punitive damages is denied.
4. Respondents' request for attorney's fees, costs and expenses is denied.

### **OTHER COSTS**

The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding including attorney's fees.

### **FORUM FEES**

1. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of \$3,000 (four sessions x \$750 per session).
2. Respondents, Bass Securities, White and Bass, are hereby assessed \$3,000, jointly and severally, \$750 of which shall be paid directly to the Claimant as a refund of her hearing session deposit, and \$2,250 of which shall be paid to the National Association of Securities Dealers, Inc.
3. The NASD shall retain the non-refundable filing fee of \$200 paid by the Claimant.
4. Respondents shall, jointly and severally, reimburse the Claimant \$200 for the non-refundable filing fee.

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

#### **Concurring Arbitrators' Signatures**

/s/  
C. Jerome Leonard, Jr., Esq.

Public

/s/  
Frederick H. Temple

Public

/s/  
Louis M. Davis

Industry

Date of Decision: May 12, 1993