

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

---

In the Matter of the Arbitration Between

Name of Claimant

Joseph A. Vento

and

92-01503

Name of Respondent

Boettcher & Co., Inc.

---

**REPRESENTATION OF PARTIES**

Claimant Joseph A. Vento appeared pro se.

Respondent Boettcher & Co., Inc. was represented by William D. Nelson, Esq. of Robinson, Waters, O'Dorisio and Rapson, Denver, Colorado.

**CASE INFORMATION**

The Statement of Claim was filed on or about May 1, 1992. Submission Agreement of Claimant Joseph A. Vento was signed on April 24, 1992.

Statement of Answer was filed by Respondent Boettcher & Co., Inc. on or about July 21, 1992. Submission Agreement of Respondent Boettcher & Co., Inc. was signed on July 1, 1992 by Janet L. Reali, Esq.

**HEARING INFORMATION**

The hearing was held on Friday, March 12, 1993 in Denver, Colorado for a total of one (1) session.

**CASE SUMMARY**

Joseph A. Vento ("Claimant") alleged that Respondent Boettcher & Co., Inc. controlled the activities in his IRA account and made transactions in the account which were unsuitable and improper for the account; exercised control over the account; made purchases which were excessive in size and inconsistent with his investment objectives. Claimant specifically alleged that the investments in Kemper Intermediate Government trust and Kemper High Income Trust were made without his knowledge of the risks and suitability being disclosed to him.

Boettcher & Co., Inc. denied each and every claim asserted by the claimant. Boettcher specifically denied that the transactions complained of in this matter were unauthorized, that it controled the claimant's account, that it made misrepresentations or failed to disclose material facts, and that the investments complained of were unsuitable. Boettcher also asserted affirmative defenses including but not limited to the following: the claimant fails to state a claim upon which relief can be granted, the claims are barred by the doctrines of estoppel, ratification, waiver, acquiescence and laches, and the claims are barred by the applicable statutes of limitations.

### **RELIEF REQUESTED**

Claimant requested an award in the amount of \$32,062.50 for the difference between the purchase price of \$12 1/8 per share and the low market price of \$5.00 per share, damages in the sum of \$9,450.00 for the difference between \$517.50 per month dividend and \$360.00 per month dividend for five years, damages in the sum of \$2,264.30 for the loss incurred from the purchase and sale of Kemper Intermediate Trust Shares for a total award in the amount of \$43,776.60, punitive damages in the amount of \$43,776.60, and for such other relief deemed proper.

Boettcher & Co., Inc. requested that the arbitration panel enter an award in its favor and against the claimant.

### **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 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. All claims asserted in this matter shall be and hereby are dismissed with prejudice.
2. Each party shall bear its own costs, expenses and attorney's fees incurred in this matter not specifically enumerated herein.

**FORUM FEES**

Pursuant to Section 43(c) of the NASD Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. ("NASD") shall retain the non-refundable filing fee in the amount of \$150.00 and shall retain as forum fees the hearing session deposit in the amount of \$500.00 previously deposited with the NASD by the Claimant.

Forum fees are calculated at the rate of \$500.00 per hearing session and \$300.00 for each prehearing conference, if any.

Dated:

s/ Gilbert L. McSwain, Esq.  
Gilbert L. McSwain, Esq.  
Public Arbitrator, Presiding Chair

March 26, 1993

s/ Kenneth Webster  
Kenneth Webster  
Public Arbitrator

March 25, 1993

s/ Richard M. Reider  
Richard M. Reider  
Industry Arbitrator

March 26, 1993

FILED IN NASD RECORD - 4-6-93