

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Owen Brown, Individually
and as Trustee for the
Owen J. Brown & Associates Defined Benefit Pension Plan

NASD Arbitration
No.92-03536

Name of Respondent(s)

Financial West Group
Nancy Catherine Estrada
John P. Willoughby
Donald Brooks
James Anderson
Gene Valentine

REPRESENTATION

For Claimants: Lionel Z. Glancy, Esq., Santa Monica, California

For Respondent: H Thomas Fehn, Esq., Fields, Fehn & Sherwin, Los Angeles,
California

CASE INFORMATION

Statement of Claim filed: October 20, 1992

Claimant's Submission Agreement signed: September 24, 1992

Joint Statement of Answer filed: December 29, 1992

Respondents' Submission Agreement signed:

Financial West Group:	December 17, 1992
Nancy Catherine Estrada:	January 22, 1993
John P. Willoughby:	December 17, 1992
Donald G. Brooks:	December 27, 1992
James Anderson:	January 26, 1993
Gene Valentine:	January 13, 1993

HEARING INFORMATION

Pre-hearing telephone conference date / sessions:

July 23, 1993 - 1 session

Hearing date / sessions:

July 28, 1993 - 2 sessions

Hearing Location: Los Angeles, California

CASE SUMMARY

Claimant alleged fraud, unauthorized trading, recommending unsuitable investments, failure to disclose the effect of the use of margin, breach of fiduciary duty, negligence and churning.

Respondents denied the allegations, and asserted that Claimant was at all times fully informed and approved the activities in the accounts, and that Claimant was a sophisticated investor who was in fact suitable for the transactions made.

RELIEF REQUESTED

Claimant requested compensatory damages of \$100,000.00, emotional distress damages of \$250,000.00, pre-judgment interest, punitive damages of \$1,000,000.00, costs of arbitration and attorney's fees.

Respondents requested dismissal of all claims, and an award of costs and attorney's fees.

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 originals 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 by Claimant as an individual are dismissed in their entirety.
2. With respect to the claims asserted by Claimant as Trustee:
 - (a) Respondent Financial West Group is liable for and shall pay to Claimant trustee the sum of \$10,000.00 in satisfaction of all claims.
 - (b) the claims against Respondents Nancy Catherine Estrada, John P. Willoughby, Donald G. Brooks, James Anderson and Gene Valentine are dismissed in their entirety.
3. The claims for punitive and emotional distress damages are dismissed.
4. The parties shall each bear their respective costs including attorney's fees.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the forum fees are to be divided as follows:

Total forum fees:

1 pre-hearing session @ \$300 / session	=	\$ 300.00
<u>2 hearing sessions @ \$750 / session</u>	=	<u>\$1,500.00</u>
Total fees:	=	<u>\$1,800.00</u>

Claimant's one-half share	=	\$ 900.00
<u>Credit for deposit</u>	=	<u>\$ 750.00</u>
Claimant's balance due	=	<u>\$ 150.00</u>

Respondent Financial West Group's one-half share	=	<u>\$ 900.00</u>
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Fees are payable to the National Association of Securities Dealers, Inc.

ARBITRATORS

<u>Name</u>	<u>Public/Industry</u>
Daniel K. Donahue	Public Chairperson
Robert G. Sether	Public Panelist
Mitchell Cutler Green	Industry Panelist

Concurring Arbitrators' Signatures



DATE SERVED: 08/30/93

Date of Decision: 7-28-93