

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the matter of the Arbitration Between

Name of Claimants

Robert Burnham

NASD Arbitration
No 93-00999

Name of Respondent

Santa Barbara Securities, Inc.

REPRESENTATION

For Claimant: Leo Federman, Investors Rights Association, Santa Barbara, California
and Dennis Merenbach, Esq., Santa Barbara, California

For Respondent: Victor Zilinskas, Esq., Zilinskas & Thompson, Santa Barbara, California

CASE INFORMATION

Statement of Claim filed: March 15, 1993

Claimants' Submission Agreement signed: October 5, 1992

Statement of Answer filed: May 13, 1993

Respondent's Submission Agreement signed: May 11, 1993

HEARING INFORMATION

Hearing Dates / Sessions: March 7, 1994 - 2 sessions
April 5, 1994 - 2 sessions

Hearing Location: Los Angeles, California

CASE SUMMARY

Claimant alleged lack of suitability with respect to his investment in VMS mortgage investment fund. Claimant also alleges negligence, breach of contract, breach of fiduciary duty, common law fraud and misrepresentation.

Respondent denied all allegations, and asserted that Claimant had been fully informed about the risks and characteristics of the VMS investment and had received a prospectus. Respondent also asserted that the claim is barred by the applicable statutes of limitations.

RELIEF REQUESTED

Claimant requested damages of \$10,000 plus lost opportunity cost, punitive and treble damages, pre-judgment interest, attorney's fees and costs.

Respondent requested dismissal of all claims.

OTHER ISSUES CONSIDERED AND 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 remains 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. Claimant is to return to Respondent all his right, title and interest in the VMS Mortgage Investment Fund investment.
2. Respondent is liable for and shall pay to Claimant the sum of \$5,000 exactly, upon return of the Claimant's interest in VMS as outlined above.
3. The claims for punitive and treble damages are dismissed.
4. The parties shall each bear their respective costs, including attorney's fees.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the NASD shall retain the \$120 non-refundable filing fee. Forum fees are assessed as follows:

Total forum fees:		
Four sessions @ \$400 / session	=	\$1,600.00
Claimant's one-half share	=	\$800.00
<u>Credit for hearing session deposit</u>	=	<u>\$400.00</u>
Balance due	=	<u>\$400.00</u>
Respondent's one-half share	=	<u>\$800.00</u>

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

ARBITRATORS

<u>Name</u>	<u>Public / Industry</u>
Audrey H. Ruben	Public Chairperson
James N. Lamb	Public Panelist
Milton C. Bennett	Industry Panelist

Concurring Arbitrators' Signatures

James N. Lamb

Date of Decision: 4-5-94

Served 5/23/94