

## **NASD AWARD**

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

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In the Matter of the Arbitration Between

Name of Claimant

William N. & Corrine E. Bickel

and

93-01692

Name of Respondents

Donald J. Denton  
W. Russell Denton  
Strategic Financial Planning Center, Inc.

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### **REPRESENTATION OF PARTIES**

William N. & Corrine E. Bickel ("Claimant") were represented by Walter V. Hines, Esq., Springfield, Ohio.

Donald J. Denton and W. Russell Denton ("Respondents") appeared *pro se*.

Strategic Financial Planning Center, Inc. refused to submit to arbitration.

### **CASE INFORMATION**

The Statement of Claim was filed on or about April 28, 1993. Amendment to the Statement of Claim was filed on or about December 21, 1993. Submission Agreement of Claimants William N. & Corrine E. Bickel was signed on April 14, 1993.

Statement of Answer was filed by Respondents Donald J. Denton and W. Russell Denton on or about June 15, 1993. Submission Agreement of Respondent Donald J. Denton was signed on June 15, 1993. Submission Agreement of Respondent W. Russell Denton was signed on June 15, 1993.

### **HEARING INFORMATION**

The hearing was held on Wednesday, July 6, 1994 for two (2) sessions and Thursday, July 7, 1994 for two (2) sessions in Columbus, Ohio for a total of four (4) sessions.

### **CASE SUMMARY**

Claimants alleged that Respondents committed fraud and negligence on them and have breached their fiduciary duty to them. Claimants specifically alleged that Respondents recommendations and purchases for their retirement and personal accounts produced a completely undiversified accumulation of unsuitable limited partnerships. Claimants also alleged that Respondent Donald J. Denton gave negligent advice regarding the roll over of retirement funds.

Respondents denied the allegations set forth in the Statement of Claim. Respondents stated that the claimants were sophisticated and experienced investors. It was further stated by Respondents that all transactions complained of in the Statement of Claim were unsolicited. Respondents also stated that the Claimants met all net worth requirements for the limited partnership investments complained of in this matter. With regard to the allegation of negligent advice on the rollover of retirement funds, Respondents stated that the Claimant made the decision to exercise the option of ten year forward averaging after two meetings and numerous phone calls. Respondents also asserted the affirmative defense that the claims are barred by the applicable statute of limitations.

### **RELIEF REQUESTED**

Claimants requested an award in the amount of \$110,367, costs, NASD fees, attorneys' fees, expert witness fees and expenses and punitive damages in the discretion of the arbitration panel.

Respondents requested that the claims asserted against them be dismissed.

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

Respondents' Motion to Dismiss was denied.

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 and the post-hearing submissions, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents Donald J. Denton and W. Russell Denton shall be and hereby are jointly and severally liable for and shall pay to the Claimants William N. & Corrine E. Bickel the sum of **Thirty five thousand dollars (\$35,000)** as compensatory damages.

2. All claims asserted against Respondent Strategic Financial Planning Center, Inc. shall be and hereby are dismissed with prejudice.
3. Each party shall bear its owns costs expenses and attorneys' fees incurred in this matter not specifically enumerated.
4. All relief requested not specifically addressed above shall be and hereby are dismissed with prejudice.

### **FORUM FEES**

Forum fees are calculated at the rate of \$750 per hearing session and \$300 for each prehearing conference, if any. There were four (4) sessions x \$750 = \$3,000 in forum fees. Pursuant to §43(b) a hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less.

Pursuant to §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 \$200 and shall refund the hearing session deposit in the amount of \$750 previously deposited with the NASD by the Claimant.. Respondents Donald J. Denton and W. Russell Denton shall be and hereby are jointly and severally liable for and shall pay to the NASD the sum of \$3,000 as forum fees. Fees are payable to the National Association of Securities Dealers, Inc.

Dated:

**s/ Jerome B. Haddox, Esq.**  
Jerome B. Haddox, Esq.  
Public Arbitrator, Presiding Chair

**July 30, 1994**

**s/ W. Sean Kelleher, Esq.**  
W. Sean Kelleher, Esq.  
Public Arbitrator

**July 28, 1994**

**s/ Howard W. Kraft**  
Howard W. Kraft  
Industry Arbitrator

**July 29, 1994**