

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Ellis T. Booth

NASD Arbitration
No.94-00386

Name of Respondent(s)

Financial Investment Network Corporation
Robert Brennan

REPRESENTATION

For Claimant: Richard Sacks, Investors Recovery Service, Novato, CA

For Respondents: David Markun, Esq., Zelle & Larson, San Francisco, CA

CASE INFORMATION

Statement of Claim filed: January 21, 1994

Claimant's Submission Agreement signed: October 27, 1993

Statement of Answer filed by Respondent: May 23, 1994

Respondent Financial Network Investment Corporation's Submission Agreement
signed: April 5, 1994

Respondent Robert Brennan's Submission Agreement signed: May 23, 1994

HEARING INFORMATION

Pre-Hearing Conference: January 9, 1995

Hearing Date(s)/Sessions: January 23, 1995 and January 24, 1995 (3) sessions

Hearing Location: San Francisco, California

CASE SUMMARY

Claimant alleged:

Breach of fiduciary duty, negligence, misrepresentation and violation of NASD rules in the purchase of Commonwealth Equity Trust (CET). Claimant Ellis Booth's (Booth) net worth was approximately \$110,000, of which 50% was liquid. Claimant's income was \$22,000 annually which consisted of Social Security, pension and interest income. Booth had never previously had a brokerage account and had only invested in insured Certificates of Deposit (CD).

Respondents denied all allegations of wrongdoing and alleged:

Claimant first came to Respondent Robert Brennan (Brennan) in March of 1987 for investment assistance. He wanted a better return than the eight percent he was earning on his CDs. Booth first authorized purchase of Putnam Mutual Funds and the Putnam Dividend Trust, and in May 1988 expressed interest in CET.

As of 1987 CET had an excellent track record and had never missed a distribution during the previous 15 years proceeding 1988. Subsequent to Booth's investment in CET, it experienced unanticipated problems, including: decline in California real estate prices, change in management and withdrawal of funding and lines of credit. The investment was fully discussed with Booth prior to his authorizing the purchase and based on Claimant's stated objectives.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$36,539.19 plus costs associated with the prosecution of his claim.

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 remains on file with the NASD.

AWARD

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

1. Each and every claim is denied.
2. Each party shall bear their own attorney's fees and costs.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following forum fees are assessed:

The NASD shall refund to claimant the \$400.00 hearing session deposit previously deposited by claimant. All forum fees are assessed against respondents, jointly and severally, and are calculated as follows: One (1) pre-hearing telephone conference @ \$300.00/conference and three (3) hearing sessions at \$400/session for a total balance due of \$1,500.00.

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


ARBITRATORS

<u>Name</u>	<u>Public/Industry</u>
Helen Marinak Blohm	Public Arbitrator
Herbert Liberman	Public Arbitrator
Thomas Borden	Industry Arbitrator

Concurring Arbitrators' Signatures

Helen Marinak Blohm

Herbert Liberman

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Thomas Borden

Date of Decision: _____

Date served: 02/16/95