

**NATIONAL ASSOCIATION OF SECURITIES DEALERS
AWARD**

In the matter of the Arbitration Between

Name of Claimant
James Pritchard

NASD Arbitration
No. 94-01399

v.

Name of Respondents
David Murray
Mark Fink
Kennedy, Cabot & Company

REPRESENTATION

For Claimant: Adam D. Schneir, Esq., Investors Arbitration Services, Inc., Woodland Hills, California

For Respondent Kennedy, Cabot: George Kupper, Esq., Kennedy, Cabot & Co., Beverly Hills, California

Respondent David Murray represented himself.

CASE INFORMATION

Statement of Claim filed: April 11, 1994

Claimant's Submission Agreement signed: May 1, 1994

Statements of Answer filed as follows:

Kennedy, Cabot: August 3, 1994

David Murray: August 3, 1994

Respondents' Submission Agreements signed as follows:

Kennedy, Cabot: August 3, 1994

David Murray: August 2, 1994

HEARING INFORMATION

The evidentiary hearing was held in Los Angeles, California, on January 31, 1995, and lasted 2 sessions.

CASE SUMMARY

Claimant alleged unsuitable investments, failure to supervise, negligence, breach of fiduciary duty and fraud with respect to his investments in Continental Airline bonds and Bally 13% notes.

Respondent Kennedy, Cabot requested dismissal based upon the running of applicable statutes of limitations, and also asserted that Claimant suffered no damages.

Respondent Murray also asserted that Claimant had suffered no damages and that applicable statutes of limitations had run.

RELIEF REQUESTED

Claimant requested damages of \$34,000 (or rescission, in the alternative), plus interest and costs of arbitration.

Respondents each requested dismissal of all claims.

OTHER ISSUES CONSIDERED AND DECIDED

Prior to hearing, Claimant dismissed his claims against Respondent Mark Fink.

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, and after hearing arguments on the motion to dismiss pursuant to applicable statutes of limitations, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents' motion to dismiss on statutes of limitations grounds is denied.

2. All claims asserted by Claimant are dismissed in their entirety.
3. 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 fees:	
2 sessions @ \$400/session	\$800
Claimant's one-half share	\$400
Credit for deposit	<u>\$400</u>
	\$ 0
Respondent Kennedy, Cabot's one-half share	\$400

Fees are payable to the NASD, Inc.

ARBITRATORS

Name

Michael E. Friedman
Lionel S. Heller
Leo M. Klein

Public / Industry

Public Arbitrator
Public Arbitrator
Industry Arbitrator

Concurring Arbitrators' Signatures

Michael E. Friedman

Lionel S. Heller



Leo M. Klein

Served 3/1/95

Date of Decision: 1-31-95

2. All claims asserted by Claimant are dismissed in their entirety.
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Industry Arbitrator

Concurring Arbitrator Signatures



Michael E. Friedman

Lionel S. Heller

Leo M. Klein

Served 3/1/95

Date of Decision: 2/21/95

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Michael E. Friedman

Lionel S. Heller

Leo M. Klein

Served 3/1/95

Date of Decision: _____