

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimants

H. Francis Sparks (IRA)  
Lucille Sparks

95-01161

Name of Respondent

BA Investment Services, Inc.

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CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on March 6, 1995, Claimants, H. Frances Sparks (IRA) and Lucille Sparks ("Claimants"), who appeared Pro Se, alleged that Respondent, BA Investment Services, Inc., did not properly manage their account. Claimants further alleged that in September, 1993, Greg Duncan, a representative of the Respondent, recommended that Claimants entire IRA CD account, totalling \$164,838.71, be placed into the GNA Investors Trust Fund ("GNA"). Claimants contended that neither the risks nor the high yearly expenses of GNA were disclosed to them. Claimants further contended that GNA was explained as a CD alternative backed by the U.S. government with an interest rate of 7.7%. Claimants alleged that early in 1994, they asked the Respondent to void their GNA purchase and to place their funds back in a CD but this request was denied. Claimants further alleged that they later exchanged their GNA investment for a shorter term GNA investment, but have still lost money. As a result of the above, Claimants alleged that they have suffered a loss for which the Respondent should be held liable.

Respondent, BA Investment Services, Inc., through its representative and in-house counsel, Kenneth F. Bochat, Esq., located in San Francisco, CA, maintained that Greg Duncan provided the Claimants with a prospectus which detailed the objectives of the fund, the risks associated with purchasing shares of the fund, the Annual Fund Operating Expenses including the Section 12(b)-1 fees, and the cost schedule for contingent deferred sales charges applicable to the redemption of funds within their first five years. Respondent further maintained that on September 19, 1993, Greg Duncan provided Claimants with an Investment Acknowledgement form which specifically outlined certain features of the fund, including the sales charges. Respondent contended that Claimant, H. Francis Sparks, signed the agreement which stated that he had received a prospectus and that he understood the nature of the fund. As a result of the above, Respondent maintained that it should not be held liable.

**RELIEF REQUESTED**

Claimants, H. Frances Sparks (IRA) and Lucille Sparks, requested \$10,000.00 in actual damages and permission to withdraw their account without penalty.

Respondent, BA Investment Services, Inc., requested that the claims of the Claimants be dismissed.

**AWARD**

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Amy Seltzer, Ph.D, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants, H. Frances Sparks (IRA) and Lucille Sparks, on February 28, 1995, and by the Respondent, BA Investment Services, Inc., on June 13, 1995.

And, the Arbitrator, having considered the proof of the parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The claims of the Claimants, H. Frances Sparks (IRA) and Lucille Sparks, against Respondent, BA Investment Services, Inc., are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants, H. Frances Sparks (IRA) and Lucille Sparks, shall be retained by the NASD, Inc. Respondent, BA Investment Services, Inc., shall pay to the Claimants, H. Frances Sparks (IRA) and Lucille Sparks, \$150.00 as reimbursement of the filing fee.

95-01161

**AFFIRMATION**

STATE OF

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ss:

COUNTY OF

I, Amy Seltzer, do hereby affirm upon my oath as arbitrator that I am  
the individual described herein and who executed this instrument, which is my oath and award.

Amy Seltzer  
Signature of Arbitrator

DATE OF DECISION:      October 31, 1995