

N.A.S.D.R. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS REGULATION

In the Matter of the Arbitration Between

Name of Claimants

Robert Bonitz, B&B Investors, George A. Parmer, Paxtonia Associates, Residential Warranty Corp. #23, Residential Warranty Corp. #24, Residential Warranty Corp. #28 and Residential Warranty Corp. #EAM

95-01727

Name of Respondents

Josephthal Lyon & Ross Inc.
Southeast Research Partners, Inc.
Bonnie Motyka

REPRESENTATION

For Claimant Robert L. Bonitz, B&B Investors, George A. Parmer, Paxtonia Associates, Residential Warranty Corp. #23, Residential Warranty Corp. #24, Residential Warranty Corp. #28 and Residential Warranty Corp. #EAM ("Claimants"): Christopher Lovell, Esq. and Gary Jacobson, Esq. of Christopher Lovell, P.C.

For Respondents Josephthal Lyon & Ross, Inc. ("Josephthal") Southeast Research Partners, Inc. ("SERP") and Bonnie Motyka ("Motyka"): Brian J. Neville, Associate General Counsel of Josephthal.

CASE INFORMATION

Claimants' Statement of Claim filed: April 6, 1995.

Robert L. Bonitz's ("Bonitz") Submission Agreement signed on: March 14, 1995.

B&B Investors's ("B&B") Submission Agreement signed on: March 15, 1995.

George A. Parmer's ("Parmer") Submission Agreement signed on: March 20, 1995.

Paxtonia Associates' ("Paxtonia") Submission Agreement signed on: April 24, 1995.

Residential Warranty Corp. #23's ("RWC #23") Submission Agreement signed on: March 20, 1995

Residential Warranty Corp. #24's ("RWC #24") Submission Agreement signed on: March 20, 1995.

Residential Warranty Corp. #28's ("RWC #28") Submission Agreement signed on: March 20, 1995.

Residential Warranty Corp. #EAM's ("RWC #EAM") Submission Agreement signed on: March 20, 1995

Joint Statement of Answer filed by Respondents Josephthal, Southeast Research Partners, Inc. and Motyka ("Respondents") on: October 16, 1995.

Josephthal's Submission Agreement signed on: June 21, 1995.

SERP's Submission Agreement signed on: June 21, 1995

Motyka's Submission Agreement signed on: June 21, 1995.

HEARING INFORMATION

Hearing Dates/Sessions: May 30, 1996 - two session
May 31, 1996 - two sessions

Hearing Location: NASDR District Office, Philadelphia, PA

CASE SUMMARY

Claimants alleged, among other things, that Respondents churned Claimants' accounts, made unsuitable trades, failed to follow Claimants stated investment objectives and made unauthorized purchases. Claimants also alleged violation of 10 (b) of the Securities Exchange Act of 1934 and 10b-5 promulgated thereunder. Claimants also alleged common law fraud, breach of contract, breach of fiduciary duty, deceit, negligence and conversion.

Respondents maintained, among other things, that all trades were authorized previous to execution, all investments were ratified, and the claim is barred by estoppel; all investments were suitable; and the account was not churned.

RELIEF REQUESTED

Claimants requested an award jointly and severally against Respondents damages in excess of \$200,000 as to Paxtonia, B&B and Bonitz; and in excess of \$135,000 as to Parmer, RWC #23, RWC #24, RWC #28 and RWC #EAM. Claimants also seek an award for unjust enrichment of excessive commissions in amount in excess of \$35,000 as to Paxtonia, B&B and Bonitz; and in excess of \$115,000 as to Parmer, RWC #23, RWC #24, RWC #28 and RWC #EAM. Claimants also requested an award of interest, administrative costs, attorneys' fees, expert witness fees and filings fees, plus punitive damages in an amount of \$670,000.

Respondents requested reasonable costs for defending this matter and that all forum fees be assessed against Claimants.

OTHER ISSUES CONSIDERED & DECIDED

At the hearing, Claimants dropped their claim for churning.

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

- 1) Claimants' claims for damages, including their claim for punitive damages is denied in their entirety.
- 2) The parties shall bear their own attorneys' fees.
- 3) All parties shall bear their respective costs and disbursements except as Forum Fees are specifically addressed herein.

FORUM FEES

Pursuant to Section 10332 of the Code of Arbitration Procedure, the following Forum Fees are assessed.

4 sessions x \$1,000 = \$4,000

Forum Fees Assessed Against: Claimants and Respondents equally. Claimants are assessed forum fees in the amount of \$2,000, however, Claimants are allowed to offset this amount with their hearing session deposit of \$1,000 previously filed so that the amount due from Claimants is \$1,000. Respondents are jointly and severally assessed forum fees in the amount of \$2,000.

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

DATE AWARD SIGNED

CONCURRING ARBITRATORS' SIGNATURES

7/18/96

Joseph R. Lally
Joseph R. Lally, Chairperson
Public Arbitrator

Edward M. Miller, Panelist
Public Arbitrator

Jerry Brown, Panelist
Industry Arbitrator

Date Award served by the NASDR:

July 22, 1996

DATE AWARD SIGNED

CONCURRING ARBITRATORS' SIGNATURES

Joseph R. Lally, Chairperson
Public Arbitrator

7-18-96



Edward M. Miller, Panelist
Public Arbitrator

Jerry Brown, Panelist
Industry Arbitrator

Date Award served by the NASDR: July 22, 1996

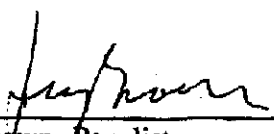
DATE AWARD SIGNED

CONCURRING ARBITRATORS' SIGNATURES

Joseph R. Lally, Chairperson
Public Arbitrator

Edward M. Miller, Panelist
Public Arbitrator

7-17-96



Jerry Brown, Panelist
Industry Arbitrator

Date Award served by the NASDR:

July 22, 1996