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9604109

NASD AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Name of Claimant

Jane M. Brenna

and

Name of Respondent

Gardner Financial Services, Inc.
Peter Hermanson
Lawrence Bumgardner

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95-04256

REPRESENTATION OF PARTIES

Jane M. Brenna ("Claimant") was represented by Russell J. Jensen, Esq., St. Paul, Minnesota. Gardner Financial Services, Inc. ("Respondent Gardner"), Peter Hermanson ("Respondent Hermanson") and Lawrence Bumgardner ("Respondent Bumgardner") (collectively as "Respondents") were represented by Lynne M. Rasmussen, Esq., Dorsey & Whitney, Minneapolis, Minnesota.

CASE INFORMATION

The Statement of Claim was filed on or about September 6, 1995. Submission Agreement of Claimant Jane M. Brenna was signed on August 21, 1995.

Statement of Answer was filed by Respondents Gardner Financial Services, Inc., Peter Hermanson and Lawrence Bumgardner on or about November 1, 1995. Submission Agreement of Respondent Gardner Financial Services, Inc. was signed on October 26, 1995 by Larry O. Bumgardner. Submission Agreement of Respondent Peter Hermanson was signed on October 26, 1995. Submission Agreement of Respondent Lawrence Bumgardner was signed on October 26, 1995.

HEARING INFORMATION

The hearing was held on March 25, 1996 in Minneapolis, Minnesota for a total of two (2) sessions.

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CASE SUMMARY

Claimant alleged that she was recommended an unsuitable investment in view of her situation and needs. Specifically, Claimant alleged that the investment in Southbrook Mortgage Associates, L.P. was unsuitable for her in light of the facts that she and her husband were retired and living on a fixed income, and the funds that financed the investment were from an inheritance she received.

Respondents denied the allegations set forth in the Statement of Claim. Respondents specifically stated that based upon discussions with Claimant concerning her risk tolerance, investment objectives, and information she provided regarding her income and financial situation, they had reasonable grounds to believe that the investment complained of were suitable for Claimant.

REQUESTED

Claimant requested an award in the amount of \$6,971.06 plus interest, costs, disbursements, and reasonable attorneys' fees.

Respondents requested that the claims asserted against them be dismissed in their entirety and that they be awarded their costs and attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that a handwritten, signed Award may be entered. The parties have agreed to receive a conformed copy 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, the undersigned arbitrator has decided in full and final resolution of the issues submitted fix determination as follows:

1. The claims asserted in this matter shall be and hereby are dismissed in their entirety.
2. Each party shall bear its own costs, expenses and attorneys' fees incurred in this matter not specifically enumerated herein.
3. Respondents shall be and hereby are jointly and severally liable for and shall pay to the Claimant the sum of two hundred dollars (\$200) as reimbursement of the hearing session deposit previously paid to the NASD by Claimant.

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FORUM F E E S

Forum fees are calculated at the rate of \$200 per hearing session. There were two (2) sessions x \$200 = \$400 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 \$75 and shall **retain** as forum fees the hearing session deposit in the amount of \$200 previously deposited with the NASD by the Claimant Jane M. Brenna. Respondents shall be and hereby are jointly and severally liable for and shall pay to the NASD the sum of \$200 as the balance due for forum fees.

Pursuant to §45 of the NASD Code of Arbitration Procedure, the NASD shall **retain** the non-refundable member surcharge in the amount of \$100. **Fees are payable to the National Association of Securities Dealers, Inc.**

Dated:

April 17, 1996