

12/19/97

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N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Ralph V. Braun

95-04440

Names of Respondents

Kidder, Peabody & Co., Incorporated
Keith A. Mericka

REPRESENTATION

For Claimant: Jeffrey P. Coleman, Esq., Clearwater, Florida.

For Respondents: Thomas A. Dubbs, Esq. and David Rivera, Esq., in-house counsel at Kidder, Peabody & Co., Inc. ("Kidder").

CASE INFORMATION

Statement of Claim filed: December 19, 1995.

Claimant's Response to the Respondents' Wrongful Motion to Invoke Section 15 filed on: February 12, 1996.

Claimant's Submission Agreement signed on: August 25, 1995.

Respondents' Motion to Dismiss filed on: January 18, 1996.

Respondents' Reply to the Claimant's Response to the Motion to Dismiss filed on: March 7, 1996.

The Respondents failed to file executed Submission Agreements.

HEARING INFORMATION

There were no hearings conducted in this matter.

CASE SUMMARY

Claimant alleged that he succumbed to the Respondents' fraudulent and/or negligent misrepresentation which induced him to not only part with and dissipate a substantial amount of his life savings in unsuitable investments, including investments in limited partnerships, but also to retain these unsuitable investments through Kidder's continuing unsatisfactory account management of his portfolio.

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Respondents maintained that the Claimant failed to bring his claim within six years after the purchase of the securities complained of; therefore, the NASD lacks jurisdiction to hear this claim and it must be dismissed.

RELIEF REQUESTED

Claimant requested judgment, jointly and severally, against the Respondents as follows: for total compensatory damages of \$22,169.28 and a rescission of the Wingate Government Mortgage Partners, II Limited Partnership; costs, expenses and disbursements; all fees paid to NASD Regulation, Inc.; punitive damages in an amount to be determined by the arbitrators; and, such other relief as the arbitration panel deemed just and proper.

Respondents requested a dismissal of all claims against them.

OTHER ISSUES CONSIDERED & DECIDED

On November 10, 1997, NASD Regulation, Inc. was informed that the Claimants had entered into a settlement agreement with the Respondents. In addition, the Claimant requested that all references to this arbitration proceeding be expunged from the CRD record of Respondent Keith A. Mericka.

AWARD

After considering the pleadings and the Notice of Expungement of Keith A. Mericka, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows: have decided in full

All references to this arbitration proceeding shall be expunged from the CRD record of Respondent Keith A. Mericka.

FORUM FEES

Pursuant to Rule 10332 of the Code of Arbitration Procedure, NASD Regulation, Inc. shall retain the \$100.00 claim filing fee and the \$400.00 hearing session deposit previously paid by the Claimant to NASD Regulation, Inc.

Respondent Kidder is assessed the sum of \$400.00 representing the outstanding fee for the postponement of hearings scheduled to be conducted on July 29 and 30, 1997.

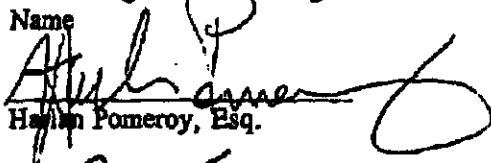
Respondent Kidder is assessed the sum of \$200.00 representing the outstanding member surcharge.

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

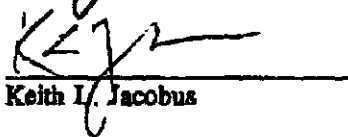
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Concurring Arbitrators' Signatures

Name


Harrison Pomeroy, Esq.


Nicholas John Taldone, Esq.


Keith L. Jacobus

Public/Industry

Public

Public

Industry

Date of Decision: 12/8/97

...and final resolution of the issues submitted for determination. All issues ... and final resolution of the issues ...
...proceeding shall be expunged from the CRO record of Respondent ...
...proceeding shall be expunged ...