

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Robert Brantley, Trustee for Robert Brantley Revocable Trust

95-04846

Name of Respondents

Clarence L. Brown
Buckhead Financial Corp.

REPRESENTATION

For Claimant: Robert M. Weinberger, Esq. of the law firm of Cohen, Chermay, Norris, Weinberger & Harris, North Palm Beach, FL.

For Respondents: Henry Lee Paul, Esq. of the law firm of Lazzara and Paul, P.A., Tampa, FL.

CASE INFORMATION

Statement of Claim filed: November 2, 1995.

On February 7, 1996, Claimants Amended their Statement of Claim by dismissing Respondent Aragon Financial from this matter and substituting Respondent Buckhead Financial Corporation.

Amended Statement of Claim filed: May 14, 1996.

Claimant's Submission Agreement signed on: November 2, 1995.

Statement of Answer filed by Respondent Buckhead Financial Corporation on: August 15, 1996.

Respondent Buckhead Financial Corporation's Submission Agreement signed on: August 14, 1996.

Statement of Answer filed by Respondent Clarence L. Brown on: February 12, 1996.

Respondent Clarence L. Brown's Submission Agreement signed on: February 5, 1996.

HEARING INFORMATION

On April 24, 1997, one (1) hearing session was conducted in Tampa, FL.

CASE SUMMARY

Claimant alleged that he invested in a worthless limited partnership at the recommendation of Respondents. The claim set forth allegations that the Respondents did not diligently research their recommendation, that they did not properly advise Claimant of his purchases, and that they recommended an investment that was unsuitable to the Claimant's investment objectives.

Respondent Buckhead Financial Corporation denied all the allegations of wrongdoing set forth in the Statement of Claim. Additionally, Respondent Buckhead Financial Corporation alleged that the Claimant never complained about his investments, expressly ratified and accepted his investments, and received all relevant documentation prior to investing. Respondent Buckhead Financial Corporation further alleged that the elements of an unsuitability claim are not present in this case and that the projections made to Claimant are not actionable.

RELIEF REQUESTED

Claimant requested compensatory damages in the sum of \$46,300.00, attorneys' fees in the sum of \$11,575.00, and costs in the sum of \$2,500.00.

Respondent Buckhead Financial Corporation requested an award from the arbitrators that the claim against it be dismissed, and that it be awarded its litigation expenses, costs, and fees.

OTHER ISSUES CONSIDERED & DECIDED

On January 15, 1997, Claimants dismissed Respondent Clarence L. Brown without prejudice from this matter.

When the hearing commenced, the panel accepted in evidence a letter from Respondent Buckhead Financial Corporation indicating that it would not appear at the hearing since their firm was no longer operating and was attempting to settle creditors' claims and liquidate the corporation. Therefore, in accordance with Rule 10324 of the Code of Arbitration Procedure the arbitration panel determined to proceed with the hearing without Respondent Buckhead Financial Corporation present.

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) Respondent Buckhead Financial Corporation is found liable and shall pay to the Claimant compensatory damages in the amount of \$46,300.00.

- 2) - Respondent Buckhead Financial Corporation is found liable and shall pay to the Claimant, pursuant to Florida Statutes Section 682.11 their attorneys' fees in the amount of \$11,575.00.
- 3) Respondent Buckhead Financial Corporation is found liable and shall pay to the Claimant the sum of \$2,500.00 representing its costs including the filing fee, service of process, copies, postage, and long distance telephone calls.
- 4) Respondent Buckhead Financial Corporation is found liable and shall pay to the Claimant the sum of \$400.00 representing reimbursement of the hearing session deposit.

FORUM FEES

Pursuant to Rule 10332(c) of the Code of Arbitration Procedure, NASD Regulation, Inc. shall retain the \$400.00 hearing session deposit and the \$120.00 claim filing fee previously paid by the Claimant to NASD Regulation, Inc.

Concurring Arbitrators' Signatures

/S/

Harold M. May

Public Arbitrator

/S/

Daniel Calabria

Industry Arbitrator

/S/

Alfred Priest

Public Arbitrator

Date of Decision: 7/8/97