

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the matter of the Arbitration Between

Name of Claimant(s)

L. James Newman

NASD Arbitration

No. 95-05076

Name of Respondent(s)

Allen B. Berman
Berman & Stickel, Inc.
Mark S. Stickel
Susette Stickel
Linda Olson
Mitchell Brater

REPRESENTATION

For Claimant: Richard Sacks and Irwin G. Stein, Investors Recovery Service, Novato, California

For Respondents Allen B. Berman, Berman & Stickel, Inc., Mark S. Stickel, Susette Stickel and Linda Olson: John A. Bender, Jr., Esq., Weiss, Jensen, Ellis & Howard, Seattle, Washington

For Respondent Mitchell Brater: No Appearance at Hearing.

CASE INFORMATION

Statement of Claim filed: October 24, 1995

Claimant's Submission Agreement signed: August 22, 1995

Joint Statement of Answer filed by Respondents Berman & Stickel, Inc., Allen B. Berman, Mark S. Stickel, Susette Stickel and Linda Olson: January 16, 1996

Respondents' Submission Agreements signed as follows:

Berman & Stickel, Inc. and Mark S. Stickel: January 16, 1996

Linda Olson and Allen B. Berman: July 20, 1996

Susette Stickel: July 25, 1996

HEARING INFORMATION

Pre-Hearing Conference Date(s)/Session(s):

October 1, 1996 (one session)

Hearing Date(s)/Session(s): October 23, 1996 (two sessions)

October 24, 1996 (two sessions)

October 25, 1996 (two sessions)

Hearing Location:

San Francisco, California

CASE SUMMARY

Claimant alleged that the above-captioned dispute arises out of the sale, by Respondents, of certain securities notes issued by Towers Financial Corporation (Towers Notes). Claimant also alleged misrepresentation, negligence and breach of fiduciary duty with respect to his investment in Towers Notes. Claimant further alleged that Respondents breached the covenant of good faith and fair dealing and violated Article III, Section 2 of the National Association of Securities Dealers, Inc. (NASD) Rules of Fair Practice.

Respondents Berman & Stickel, Inc., Allen B. Berman, Mark S. Stickel, Linda Olson and Susette Stickel (Respondents) denied any liability to Claimant and alleged that Allen B. Berman never made false statements or any misrepresentations to Claimant. Respondents further alleged that Claimant was provided with a prospectus for each purchase; that Berman & Stickel, Inc. conducted due-diligence and believed that Towers information was correct and in order; and that Berman and Stickel, Inc. and Mr. Berman did not commit any fraudulent acts.

RELIEF REQUESTED

Claimant requested damages in the amount of \$455,000.00 together with interest thereon from the date of his investment, together with the costs of this action, along with such other and

further relief as the panel deems just and equitable. Claimant also requested punitive and exemplary damages.

Respondents requested dismissal of Claimant's claims.

OTHER ISSUES CONSIDERED AND DECIDED

The parties have agreed that the Award in this matter may be executed in either 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.

On or about December 9, 1996, the panel of arbitrators was advised by Mitchell Brater of a bankruptcy filing by Mr. Brater on or about April 10, 1996. Accordingly, the above-captioned matter is stayed with respect to Mr. Brater.

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. Respondents' Motion to Dismiss of September 23, 1996 is denied.
2. Respondent Allen B. Berman is solely liable for and shall pay to Claimant the sum of \$140,000.00.
3. The panel finds no liability on the part of Respondents Berman & Stickel, Inc., Mark S. Stickel, Susette Stickel and Linda Olson.
4. Claimant's claims for punitive and exemplary damages are denied.
5. The parties shall each bear their respective costs including any attorney's fees.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following forum fees are assessed: The NASD shall refund the \$1,000.00 hearing session deposit previously deposited by the Claimant. Forum fees are assessed against Respondent Allen B. Berman, solely, in the amount of \$4,800.00, calculated as follows: One pre-hearing session times \$300.00 plus six hearing sessions times \$750.00.

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

ARBITRATORS

Name Public / Industry

Richard L. Rubin, Esq.

Public Arbitrator

Sterling N. Frost

Public Arbitrator

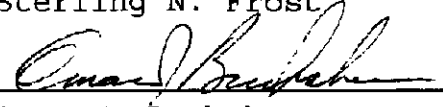
Omar J. Brubaker

Industry Arbitrator

Concurring Arbitrators' Signatures

Richard L. Rubin, Esq.

Sterling N. Frost



Omar J. Brubaker

Date of Decision: 12/28/96

Date Served: January 10, 1997

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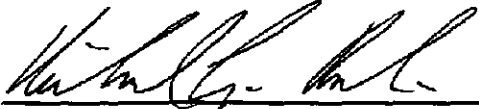
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Sterling N. Frost
Omar J. Brubaker

Public Arbitrator
Public Arbitrator
Industry Arbitrator

Concurring Arbitrators' Signatures



Richard L. Rubin, Esq.

Sterling N. Frost

Omar J. Brubaker

Date of Decision: 1/6/97

Date Served: January 10, 1997