

NASD REGULATION, INC. AWARD**NASD Regulation, Inc., Office of Dispute Resolution**

In the Matter of the Arbitration Between

Name of Claimant

Barbara B. Burnett-Keaton

95-05188

Names of Respondents

Interstate/Johnson Lane Corporation
O. Thomas Powell, Jr.

REPRESENTATION

For Claimant: J. Leo Federman, President, CEO, Investors Rights Association, Inc.

For Respondent Interstate/Johnson Lane Corporation ("IJL"): Pamela P. Warnement, Esq., Senior Vice President and Deputy General Counsel, IJL.

Respondent O. Thomas Powell, Jr. ("Powell") appeared pro se.

CASE INFORMATION

Statement of Claim filed: November 1, 1995.

Claimant's Submission Agreement signed on: January 3, 1995.

Joint Statement of Answer filed by Respondents on: March 11, 1996.

Respondent O. Thomas Powell, Jr.'s Submission Agreement signed on: March 11, 1996.

Respondent IJL's Submission Agreement signed on: March 11, 1996.

HEARING INFORMATION

The evidentiary hearing was conducted in this matter on November 10, 1998 in Atlanta, Georgia lasting two sessions.

CASE SUMMARY

Claimant alleged the primary theory of responsibility upon which the Statement of Claim is based is a violation of the fiduciary and contractual relationship between Claimant and Respondents. Claimant alleged the following: that Respondents, through their acts and wrongful conduct, continued to engage in excessive trading in both mutual funds and stocks. Some of the stocks purchased were of a very

speculative nature, contrary to the stated investment objectives of the Claimant. Respondents violated various self-regulatory rules including, without limitation, the NASD Rules of Fair Practice, the rules of the New York Stock Exchange, and/or the rules of the American Stock Exchange.

Respondents maintained the following: Powell did not make misrepresentations and/or omissions to Claimant; Claimant made investment decisions on her own; there was no wrongful conduct of any kind by Powell or IIL with respect to Claimant's account; and, the losses which Claimant sustained, if any, are the result of market fluctuations which were known to Claimant to be a risk associated with investing in the stock and other securities markets.

RELIEF REQUESTED

Claimant requested the following damages: rescission of some or all of the investment interests, as may be applicable; compensatory damages of not less than \$65,000.00, pre-award and post-award interest from the date of each investment at issue; costs of arbitration and expenses, including but not limited to, reasonable attorneys' fees, consulting fees, expert witness fees and any other costs deemed reasonable and just; punitive and exemplary damages in a sum to be determined by the arbitration panel; and, such other and further relief as the arbitrators deemed just and equitable.

Respondents requested a dismissal of all claims asserted against them.

OTHER ISSUES CONSIDERED & DECIDED

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 original(s) remain on file with NASD Regulation, Inc.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing and post hearing submissions (if any), the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

All claims by the Claimant against both Respondents are denied in all respects.

The Claimant's requests for punitive and exemplary damages are denied.

Each party shall bear their respective costs including attorneys' fees.

OTHER FEES

Pursuant to Rule 10333 of the Code of Arbitration Procedure, Respondent IIL has paid to NASD Regulation, Inc. the \$300 member surcharge.

Pursuant to Rule 10332 of the Code of Arbitration Procedure, Claimant has paid to NASD Regulation, Inc. the \$150.00 claim filing fee.

FORUM FEES

Pursuant to Rule 10332c of the Code of Arbitration Procedure, forum fees in the sum of \$1,000.00 (two sessions x \$500.00) are assessed as follows:

Claimant is assessed the sum of \$1,000.00 less the \$500.00 on deposit in partial satisfaction thereof leaving a balance due in the sum of \$500.00.

Fees are payable to the NASD Regulation, Inc., Office of Dispute Resolution.

Concurring Arbitrators' Signatures

Name

Public/Industry

_____/s/_____
Chandler Bridges, Esq.

Public

_____/s/_____
William M. Brown, Esq.

Public

_____/s/_____
Barbara L. Guzman

Industry

Date of Decision: November 24, 1998_