

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

D. H. Brooks, Jr.

96-00438

Name of Respondents

NationsSecurities  
Brad A. Palmer

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CASE SUMMARY

In a claim filed with the National Association of Securities Dealer, Inc. on January 30, 1996, Claimant D.H. Brooks, Jr. ("Claimant"), who appeared Pro Se, alleged that Respondents NationsSecurities ("NationsSecurities") and Brad A. Palmer ("Palmer") (collectively referred to as "Respondents") made improper recommendations and purchased undesirable bonds. Claimant further alleged that he transferred his Franklin U.S. Government bonds to NationsSecurities because he had a terrible experience working with First Gibraltar Bank. Claimant also alleged that after the transfer was made, Palmer, NationsSecurities representative, recommended that he sell his bonds and invest in Nations Securities Fund 2004, a growth fund. Claimant asserted that he informed Palmer of his concern to preserve the full principal amount. Claimant further asserted that he sold his shares of Franklin Bonds at a capital loss and agreed to purchase Nations Securities 2004 because it paid a higher dividend and its principal was due to increase \$3.00 a share within 9 years. Claimant also asserted that after he sold his bonds, Palmer informed him that he was unable to purchase Nations Securities 2004 but was able to purchase the sister company, Nations Securities Fund 2003 ("TCW/2003") at \$7.00 per share. Claimant contended that TCW/2003 was comprised of the same U.S. Government Securities as the Franklin bonds and, therefore, placed him back in the same type of investment. Claimant further contended that TCW/2003 was not suitable for his needs because its dividends paid four dollars less than the Franklin bonds. Claimant also contended that he contacted Mr. Vogel, Palmer's supervisor, who was not helpful in explaining why Palmer switched his account from one company to another for the same funds. Claimant alleged that further conversations with Palmer discussing his account resulted in the sale of TCW/2003 at \$7 1/2 per share. Claimant further alleged that due to the wrongdoing of the Respondents, he suffered damages for which the Respondents should be held liable.

Respondents NationsSecurities ("NationsSecurities") and Brad A. Palmer ("Palmer") (collectively referred to as "Respondents"), through their representative, Veretta Anderson, of Jenkins &

Gilchrist, located in Dallas, Texas, maintained that when the Claimant transferred his account to NationsSecurities he informed Palmer that he was upset because his Franklin U.S. Government Bonds did not meet his investment objectives. Respondent further maintained that before purchasing TCW/2003, the Claimant was advised of the types of securities it invested in, the risks involved, the potential yield and its price fluctuations. Respondents also maintained that TCW/2003, when purchased, met the Claimant's stated goals to receive monthly income, grow his current investment and get the full amount of principal back. Respondents contended that the Claimant was ultimately responsible for the investment decisions he made. Respondents further contended that the Claimant made a profit from his decision to invest in TCW/2003. Respondents also contended that it committed no wrongdoing and requested that the claims against it be dismissed.

### **RELIEF REQUESTED**

Claimant D.H. Brooks, requested \$7,152.34 in actual damages.

Respondents NationsSecurities and Brad A. Palmer, requested that the claims of the Claimant be dismissed.

### **OTHER ISSUES CONSIDERED AND DECIDED**

The arbitrator considered and reviewed all documentation submitted by the parties concerning Respondents' request to file a late Statement of Answer as they did not receive a copy of the Statement of Claim or notice of its filing at that time. The arbitrator granted the motion.

### **AWARD**

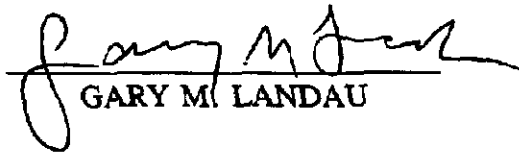
Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Gary M. Landau, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant D.H. Brooks on January 26, 1996 and by the Respondent NationsSecurities on June 12, 1996 and by Respondent Brad A. Palmer on June 14, 1996.

And, the Arbitrator, having considered the proof of the parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The claims of Claimant D.H. Brooks against Respondents NationsSecurities and Brad A. Palmer are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealer, Inc. by the Claimant D.H. Brooks shall be retained by the NASD, Inc. The Respondents NationsSecurities and Brad A. Palmer shall pay to the Claimant \$75.00 as reimbursement of one-half of the filing fee.

**AFFIRMATION**

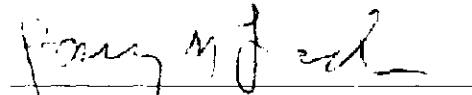
I, **GARY M. LANDAU**, do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.

  
GARY M. LANDAU

Date of Decision: September 18, 1996

STATEMENT OF ARBITRATOR

I am dismissing this claim. Claimant states that his main concern was the preservation of principal. It appears to this arbitrator that there was no diminution in principal in the investment at issue. Thus the claimant was not damaged by having these funds in the 2003 fund.



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Gary M. Landau, Esq.

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