

AWARD

**NASD, Regulation, Inc.,
Office of Dispute Resolution**

In the matter of the Arbitration Between

NASD Regulation, Inc.
No. 96-01162

Claimants

Robert G. Hatfield
Sarah J. Hatfield

vs.

Respondents

Investment Centers of America, Inc.
Kevin M. Dunnigan

REPRESENTATION OF PARTIES

For Claimants: John G. Crist, Esq., Dorsey & Whitney LLP, Billings, Montana

For Respondents: William O. Bronson, Esq., James, Gray, Bronson & Swanberg, P.C.,
Great Falls, Montana

CASE INFORMATION

Statement of Claim filed: March 14, 1996

Claimants' Submission Agreement signed: February 13, 1996

Joint Statement of Answer filed: May 16, 1996

Respondents' Submission Agreements signed:

Investment Centers: May 13, 1996

Kevin Dunnigan: May 14, 1996

HEARING INFORMATION

A pre-hearing telephone conference lasting one session was held on November 15, 1996.

The evidentiary hearing was held in Seattle, Washington, as follows:

| | | |
|---------------|---|------------|
| April 1, 1997 | - | 2 sessions |
| April 2, 1997 | - | 2 sessions |

CASE SUMMARY

Claimants alleged negligence, lack of suitability and negligent infliction of emotional distress with respect to their investments in an annuity, limited partnerships and mutual funds.

Respondents denied the allegations of the claim, and asserted that the NASD has no jurisdiction over claims concerning the annuity, and that the claims for emotional distress are barred because the underlying claim is based on a theory of contract. Respondents also asserted that all investment particulars were discussed with Claimants and prospectuses were provided prior to investment.

RELIEF REQUESTED

Claimants requested compensatory damages of \$44,391.59, \$50,000 for emotional distress damages, costs of arbitration and attorneys' fees.

Respondents requested dismissal of all claims.

OTHER ISSUES CONSIDERED AND DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart copies while the originals remain on file with the NASDR.

AWARD

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

1. Respondents are jointly and severally liable for and shall pay to Claimants the total sum of \$27,112.50, and Claimants shall deliver to Respondents all of their right, title and interest in the Datronic Equipment Limited Partnerships XIX and XX existing at the time such \$27,112.50 payment is made.
2. The claims for emotional distress damages are dismissed.

3. The parties shall each bear their respective costs of arbitration, including attorneys' fees.


FORUM FEES

Pursuant to Section 10332 of the Code of Arbitration Procedure, the NASD shall retain the \$150 non-refundable filing fee, but shall refund the \$500 hearing session deposit paid by Claimant.

Respondents are jointly and severally assessed all forum fees (1 telephone conference @ \$300/session and 4 hearing sessions @ \$500/session) in the amount of \$2300. Fees are payable to NASDR, Inc.

Concurring Arbitrators Signatures:

Date signed:



Robert M. Stein

5-12-97

John F. Cockburn

Robert McCullough

Date Served: 05/19/97

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John F. Cockburn
John F. Cockburn

Robert McCullough

May 12, 1997

Date Served: 05/19/97

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