

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

James E. Bennett as the Trustee of the
James E. Bennett Living Trust
James E. Bennett

96-02744

Name of Respondents

Retirement Investment Group
Gail Griseuk-Gentry
Cullen Edward Baker, III

REPRESENTATION

For Claimants: Michael W. Pursley, Arbitration Research Consultants, Inc., Safety Harbor, FL.

The Respondent Gail Griseuk-Gentry ("Gentry") did not appear.

The Respondent Retirement Investment Group did not appear.

The Respondent Cullen Edward Baker, III ("Baker") appeared pro se.

CASE INFORMATION

Statement of Claim filed: June 28, 1996.

Claimants' Submission Agreements signed on: June 19, 1996.

Statement of Answer filed by Respondent Baker on: December 2, 1996.

Respondent Baker's Submission Agreement signed on: November 27, 1996.

The Respondents Gentry and Retirement Investment Group did not execute Submission Agreements or submit Statements of Answer as required pursuant to Rule 10314 of the Code of Arbitration Procedure.

HEARING INFORMATION

No hearing sessions were conducted in this matter.

CASE SUMMARY

Claimants alleged that Mr. Bennett was led to believe through fraudulent and negligent misrepresentations by the Respondents that the advice he received, specifically regarding the limited partnership investment was in his best interest and that this investment, pursuant to his request, would continue to be fiscally sound and conservative. Claimants alleged that in reality the purchase of the limited partnership was an ongoing tragedy, marked throughout with deceit. Claimants next alleged they were cleverly led into purchasing highly speculative investments and the Respondents promoted these unsuitable investments without any consideration for Mr. Bennett's objectives, age, or personal needs. Claimants next maintained that Mr. Bennett believed the Respondents' promises that they would care for him and look after his best interests, but in fact they paid little or no attention to Claimants' financial priorities during the entire period of his portfolio management. Claimants further alleged that the Respondents fraudulently concealed from Mr. Bennett the high risks inherent in his investments.

Respondent Baker denied all of the allegations asserted against him and maintained that at no time did he ever converse with or make any recommendations or misrepresentations to Mr. Bennett regarding any limited partnership nor did he supervise Ms. Gentry with regard to her recommendations or financial plans for her clients, specifically Mr. Bennett. Respondent Baker further maintained that he never violated any rules, regulations or policies and denied that he was an agent of Mr. Bennett as he did not receive any compensation as a result of any transaction made by Mr. Bennett.

Respondent Baker asserted a counterclaim asserting that if he was not dismissed from the arbitration he would seek damages in the sum of \$500,000.00 and reimbursement of all fees and expenses plus punitive damages for the damage to his reputation and mental anguish suffered as a result of the meritless allegations.

The Claimants did not submit a reply to the counterclaim.

RELIEF REQUESTED

Claimants requested compensatory damages in the sum of \$41,796.00 which included interest, punitive damages in the sum of \$10,000.00, costs, expenses and disbursements including the filing fees paid to NASD Regulation, Inc. and such other relief as the arbitration panel deemed just and proper.

Respondent Baker requested a dismissal of all claims against him plus damages in the sum of \$500,000.00 on his counterclaim, punitive damages and reimbursement of all fees and expenses incurred.

OTHER ISSUES CONSIDERED & DECIDED

On February 14, 1997, NASD Regulation, Inc. was informed that the Claimants had entered into a settlement agreement with the Respondents and were, therefore, dismissing all claims with prejudice. Thereafter, the Claimants and the Respondent Baker requested that any and all

references to this arbitration be expunged from the CRD record of Respondent Baker.

AWARD

After considering the pleadings and all written submissions, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

Any and all references to this arbitration proceeding shall be expunged from the CRD record of Respondent Baker.

FORUM FEES

Pursuant to Rule 10332 of the Code of Arbitration Procedure, NASD Regulation, Inc. shall retain the \$150.00 claim filing fee previously paid by the Claimants to NASD Regulation, Inc.

In addition, the Respondent Retirement Investment Group shall pay to NASD Regulation, Inc. the sum of \$300.00 representing the member surcharge pursuant to Rule 10333 of the Code of Arbitration Procedure.

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

Concurring Arbitrators' Signatures

Name	Public/Industry
<u>/S/</u>	
<u>Guy E. Burnette, Jr., Esq.</u>	Public
<u>/S/</u>	
<u>Herbert L. Blume, Esq.</u>	Public
<u>/S/</u>	
<u>Robert M. Pizzini</u>	Industry

Date of Decision: June 23, 1997