

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Saguaro Asset Holding I

96-03045

Name of Respondent

BA Investment Services, Inc.

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**CASE SUMMARY**

In a claim filed with the National Association of Securities Dealers, Regulation, Inc. on July 16, 1996, claimant Saguaro Asset Holding I ("claimant") through its representative and counsel James E. Smith, a sole practitioner located in Las Vegas, Nevada, alleged that respondent BA Investment Service, Inc. ("BAIS") restricted its account in order to satisfy a judgment against its manager Ralph Davis ("Davis"). Claimant further alleged that Davis set up Saguaro Asset Holding I as a legal entity in order to invest money with friends through BAIS. Claimant also alleged that on May 17, 1995, BAIS was served with a Writ of Garnishment and commanded not to release any funds to Davis. Claimant asserted that Carver Management Corp. ("Carver") filed suit against Davis over a commercial lease in Las Vegas which Davis had breached. Claimant further asserted that neither Davis or them had any knowledge of the lawsuit. Claimant also asserted that on August 29, 1995 a default judgment was entered against Davis and his wife, not them, in favor of Carver. Claimant contended that on October 10, 1995, respondent liquidated the Pacific Horizon and Franklin Mutual Funds in order to satisfy the judgment. Claimant further contended that they were not a party to the civil lawsuit, and therefore, respondent should have never liquidated their account.

Respondent BA Investment Services, Inc. ("respondent") through its representative and counsel Kirk B. Lenhard, Esq., of the law firm Jones, Jones, Close & Brown, located in Las Vegas, Nevada maintained that they acted in compliance with a valid court order as evidenced by the Writs of Garnishments and Execution. Respondent further maintained that Davis and claimant were well aware of the issuance of the Prejudgment Writ of Attachment and Writ of Garnishment, as well as the Default Judgment. Respondent also maintained that under Nevada law, compliance with a Writ of Garnishment relieves the Garnishee (respondent) of any further liability in any judicial proceeding. Respondent contended that they obeyed the law and that liability may not be imposed upon it for compliance with the Garnishment and Execution statutes.

**RELIEF REQUESTED**

Claimant requested \$10,000 in relief, plus interest, fees and costs.

Respondent requested that the claims of claimant be dismissed in their entirety, plus costs and reasonable attorney fees.

**AWARD**

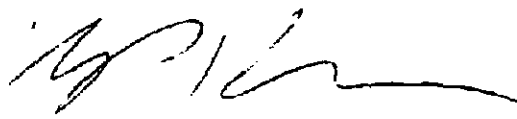
Pursuant to Section 10302 of the Code of Arbitration Procedure, a single Public Arbitrator, Walter P. Hitchcock, was selected to review the matter in controversy between the parties set forth in Submission to Arbitration signed by claimant Saguaro Asset Holding I on August 5, 1996 and by respondent BA Investment Services, Inc. on August 28, 1996 as required by the NASD Code of Arbitration Procedure.

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 Saguaro Asset Holding I against respondent BA Investment Services, Inc. are dismissed in their entirety.
2. All other relief requests are denied.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Regulation, Inc. by claimant Saguaro Asset Holding I shall be retained by the NASD, Regulation, Inc.

**AFFIRMATION**

I, **Walter P. Hitchcock**, 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.



Walter P. Hitchcock

Date of Decision: January 29, 1997