

AWARD

NASD REGULATION, INC., OFFICE OF DISPUTE RESOLUTION

In the matter of the Arbitration Between

Name of Claimant(s)

Harold Gladstone, Trustee for the Harold Gladstone Trust

v.

Arbitration No. 96-04573

Name of Respondent(s)

Financial Information Centers

Jerry L. Mathis

REPRESENTATION

For Claimant:

Scot D. Bernstein, Esq.
Sacramento, California

For Respondent Financial Information Centers:

No appearance

For Respondent Jerry Mathis:

Jerry Mathis
Long Boat Key, Florida

CASE INFORMATION

Statement of Claim filed October 14, 1996

Claimant's Submission Agreement signed October 3, 1996

Statement of Answer filed by Jerry Mathis April 29, 1997

No Submission Agreement submitted by Respondent Mathis.

HEARING INFORMATION

The evidentiary hearing was held in San Francisco, California, on April 13, 1998, and lasted 2 sessions.

CASE SUMMARY

Claimant alleged fraud, negligence, breach of contract, and breach of fiduciary duty with respect to Claimant's investment in promissory notes issued by Towers Financial Corporation. Claimant alleged the notes were not suitable for an investor of his means and with his investment objectives, and that the notes were not registered with the SEC or qualified with the California Commissioner of Corporations as required by law, nor did the notes qualify for an exemption from registration.

Respondent stated that Claimant presented him with information on the Towers notes and requested Respondent to look into this potential investment. Respondent stated he completed his due diligence examination of the Towers investment, after which Claimant freely executed subscription agreements to purchase Towers notes. Respondent stated that Claimant was not a California resident when the Towers notes were purchased, so California law is not applicable here.

RELIEF REQUESTED

Claimant requested rescission, including damages of \$140,000, plus interest, punitive damages, costs of arbitration and attorney's fees.

Respondent requested dismissal of all claims.

OTHER ISSUES

Claimant's post-hearing motions to recuse the panel are denied.

The parties have agreed to receive conformed copies of the Award while the originals remain on file with NASDR.

The NASDR was unable to obtain service on Financial Information Centers.

AWARD

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

1. All of the original note purchases were made by Claimant beyond the six-year eligibility period provided in Rule 10304 of the NASD Code of Arbitration Procedure (although one note re-purchase occurred through Respondent within the six-year

period). Accordingly, we find that Claimant's claims could be dismissed on that ground.

2. Notwithstanding the finding in paragraph 1 above, we have considered the case on its merits and find for Respondent on all claims.
3. The parties shall each bear their respective costs of arbitration, including attorney's fees.

FORUM FEES

Pursuant to Section 10332 of the Code of Arbitration Procedure, the NASDR shall retain Claimant's \$200 non-refundable filing fee.

Forum fees are to be split equally between the parties.

Total fees:

2 sessions @ \$750 / session	<u>\$1500</u>
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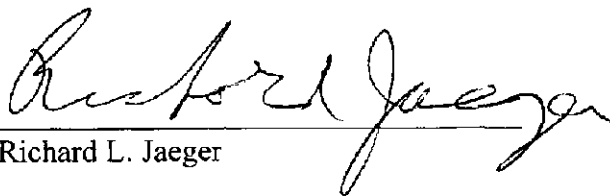
Claimant's one-half share	<u>\$750</u>
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Credit for deposit	<u>\$750</u>
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	<u>\$0</u>
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Respondent Mathis' one-half share,
payable to NASDR, Inc.

\$750


Richard L. Jaeger

Public-Chair

James G. Changaris

Public

Date Served:
OCT 26 1998

Robert R. Fischer

Industry

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