

NASD REGULATION, INC. AWARD

NASD Regulation, Inc., Office of Dispute Resolution

In the Matter of the Arbitration Between

Names of Claimants

Frank A. and Janet A. Morrison

96-05466

Names of Respondents

**U.S. Boston Capital Corporation
Leon Okurowski
Nathaniel R. Norton, III
Willard Umphrey**

REPRESENTATION

For Claimants: Scott Taylor, Vice President of Securities Arbitration Specialists, Inc., Vero Beach, Florida.

For Respondent U.S. Boston Capital Corporation: Laura Steinberg, Esq. of the law firm of Sullivan & Worcester, LLP, Boston, Massachusetts.

For Respondent Leon Okurowski: Laura Steinberg, Esq. of the law firm of Sullivan & Worcester, LLP, Boston, Massachusetts.

Respondent Nathaniel R. Norton, III ("Norton") appeared pro se.

For Respondent Willard Umphrey: Laura Steinberg, Esq. of the law firm of Sullivan & Worcester, LLP, Boston, Massachusetts.

CASE INFORMATION

Statement of Claim filed on February 10, 1997.

Claimants' Joint Submission Agreement signed on February 10, 1997.

Joint Statement of Answer filed by Respondents U.S. Boston Capital Corporation, Leon Okurowski and Willard Umphrey on March 28, 1997.

Respondents U.S. Boston Capital Corporation, Leon Okurowski and Willard Umphrey's Joint Submission Agreement signed on March 10, 1997.

Statement of Answer filed by Respondent Nathaniel R. Norton, III on March 27, 1997.

Respondent Nathaniel R. Norton, III's Submission Agreement signed on March 26, 1997.

Motion to Expunge filed by Respondent Nathaniel R. Norton, III on May 15, 1997.

Motion to Dismiss filed by Respondent Nathaniel R. Norton, III on March 31, 1997.

HEARING INFORMATION

No hearings were conducted in this matter.

CASE SUMMARY

Claimants alleged the following: that their investment objectives were capital preservation and income to support them during their retirement. They maintained an account with Respondents from July 1978 until 1992 and during that time Respondents recommended investments in limited partnerships which were speculative in nature, illiquid and unsuitable for Claimants due to their level of risk and due to the large commissions received by Respondents for selling this type of investment. Respondents continued to recommend limited partnerships even after Claimants expressed concern to Respondents on several occasions regarding these investments; Respondents convinced Claimants that these investments were "safe" and fraudulently concealed the actual value of Claimants' investments. After consulting with a Certified Financial Planner, Claimants severed their relationship with Respondents and sold the limited partnerships on the secondary market at a significant loss.

Respondents U.S. Boston Capital Corporation, Leon Okurowski and Willard Umphrey denied the allegations contained in the Statement of Claim and alleged that the occurrences at issue took place during 1978-1983 and, therefore, were not legally cognizable, as the statutes of limitation applying to the claims at issue had already run. Respondents U.S. Boston Capital Corporation, Leon Okurowski and Willard Umphrey further alleged that the Claimants made their own independent investment decisions, after full disclosure by them of all material facts, and after having had ample opportunity to read and review the appropriate prospectuses and offering memoranda. Respondents U.S. Boston Capital Corporation, Leon Okurowski and Willard Umphrey asserted that Claimants could not recover for losses on investment risks which they had freely assumed when, after full disclosure, they decided to make those investments.

Respondent Nathaniel R. Norton, III denied the allegations contained in the Statement of Claim and alleged the following: that the only investment which he recommended to Claimants, Public Storage Properties X, L.P. ("PSPX"), had performed in line with the objectives originally set for it in 1983 when the Claimants purchased it. He further alleged that the Claimants would not have suffered a loss on this investment had they held onto the shares of PSPX for the time period which they had discussed with Respondent Norton and not sold their shares prematurely. Claimants were fully informed by Respondent Norton of all aspects of this investment prior to the purchase of the PSPX shares, including the amount of the commission charged. Further, any losses incurred by Claimants were not as a result of any action on the part of Respondent Norton. Respondent Norton alleged that the claims at issue had occurred more than 6 years prior to filing of the Statement of Claim and, therefore, were not subject to arbitration under the NASD Code of Arbitration Procedure.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$119,459.00, lost earnings to the date of award along with interest at the rate of 8% per annum, punitive damages plus costs and attorneys' fees.

Respondents U.S. Boston Capital Corporation, Leon Okurowski and Willard Umphrey requested that the Statement of Claim be dismissed in its entirety or alternatively, that an award be entered in their favor.

Respondent Nathaniel R. Norton, III requested that the Statement of Claim be dismissed in its entirety, that the claim be expunged from his CRD record and that he recover the costs, expenses and attorneys' fees incurred in this proceeding.

OTHER ISSUES CONSIDERED & DECIDED

On June 25, 1997, the arbitration panel was notified that the Claimants had entered into a settlement agreement with Respondent.

AWARD

After considering the pleadings and Respondent Nathaniel R. Norton, III's Motion to Expunge, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

All references to this arbitration proceeding shall be expunged from the CRD record of Respondent Nathaniel R. Norton, III.

Respondent Nathaniel R. Norton III's request for reimbursement from the Claimants of his costs incurred in the defense of this matter is denied.

OTHER FEES

Pursuant to Rule 10333 of the NASD Code of Arbitration Procedure, Respondent U.S. Boston Capital Corporation has paid to NASD Regulation, Inc. the \$350.00 member surcharge previously invoiced.

Pursuant to Rule 10332 of the NASD Code of Arbitration Procedure, Claimants have paid to NASD Regulation Inc. the \$200.00 claim filing fee previously invoiced.

FORUM FEES

No forum fees have been assessed pursuant to Rule 10332c of the Code of Arbitration Procedure.

Concurring Arbitrators' Signatures

Name

/S/

Jacob L. Levine

Public

/S/

Samuel J. Henderson, Esq.

Public

/S/

David A. Pracker

Industry

Date of Decision: December 9, 1998