

NASD REGULATION, INC.
AWARD

In the Matter of the Arbitration Between

Name of Claimants

Adele Borden
Estate of Paul Borden, Adele Borden, Executrix

vs.

Case No.
97-03177

Name of Respondents

Halpert & Co., Inc.
The Jeffrey Matthews Financial Group, LLC
Matthew B. Cohen
Jeffrey R. Halpert

REPRESENTATION

For Claimants Adele Borden and Estate of Paul Borden, Adele Borden, Executrix ("Claimants") appeared Richard L. Burnstein, Esq., of the firm Fernandez, Burnstein & Tuczinski, P.C., located in Albany, New York.

All claims were stayed against Respondent Halpert & Co., Inc. ("Halpert") pursuant to a bankruptcy filing. Therefore, no representative appeared at the hearing on Halpert's behalf.

For Respondents The Jeffrey Matthews Financial Group, LLC, ("JMFG"), Matthew Cohen ("Cohen") and Jeffrey Halpert ("J. Halpert") (collectively "Respondents") appeared Ruthann G. Niosi, Esq., with law offices in New York, New York.

CASE INFORMATION

Claimants' Statement of Claim was filed on June 25, 1997.
Claimants' Submission Agreements were signed on June 11, 1997.

Halpert did not file a Statement of Answer or sign a Submission Agreement.

JMFG, Cohen, and J. Halpert's Statement of Answer and Motion To Dismiss was filed on October 31, 1997.

JMFG's Submission Agreement was signed on November 5, 1997.

J. Halpert's Submission Agreement was signed on November 5, 1997.

Cohen's Submission Agreement was signed on September 3, 1997.

HEARING INFORMATION

Pre-Hearing Conferences:	February 2, 1998	Full Panel
	March 9, 1998	Full Panel
	February 18, 1999	Full Panel

Hearing Dates/Sessions:	April 6, 1999	Two Sessions
	April 7, 1999	Two Sessions
	April 8, 1999	Two Sessions
	April 21, 1999	Two Sessions
	April 22, 1999	Two Sessions
	June 8, 1999	Two Sessions
	June 9, 1999	Two Sessions

The pre-hearing conferences were held telephonically. The hearings were conducted at the offices of NASD Regulation, Inc. located in New York, New York.

CASE SUMMARY

Claimants alleged that Respondents solicited investment for municipal federal contracts and certain leases of Bennet Funding Group and that these investments were fraudulently misrepresented as insured, having no risk, and superior to other tax exempt investments. Claimants alleged they are unsophisticated, and asserted that their stated investment objectives for the invested funds were tax free income, with safety of principal and no risk. Claimants further alleged that contrary to the stated investment objective, Respondents failed to diversify funds and proceeded to purchase high risk, unregistered, fraudulent securities from the Bennet Funding Group, Inc. Claimants alleged that adequate due diligence by the Respondents would have revealed Bennet Securities was a ponzi scheme using investment capital to pay off other notes and securities. Claimants asserted that in an effort to perpetuate fraud and avoid liability, Halpert's assets were transferred to JMFG while Halpert declared bankruptcy. Claimants further alleged that the transactions effected were a breach of fiduciary duty, misrepresentation and omission of the true high risk, speculative, illiquid nature of the bond.

Respondents denied all allegations made by the Claimants. They maintained Claimants should be precluded from recovery since their negligence and failure to use due diligence proximately resulted in the acts complained of. They further maintained that Claimants themselves authorized the execution of all transactions on their account. Respondents denied any knowledge of the acts complained of and maintained that the damages sustained are beyond their control. They asserted

that any action for fraud brought by the Claimants was barred by the statute of limitations. They maintained that Claimants' request for damages was improper as a matter of law and fact.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$625,000.00, attorneys' fees, forum fees, arbitrator fees, fund fees, expert witness fees, punitive damages, and any further relief which the arbitration panel deems just and appropriate under the circumstances.

Respondents requested that Claimants' complaint be dismissed in its entirety.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the Award while the original remains on file with NASD Regulation, Inc.

The Panel heard oral argument on Claimants' motion for sanctions regarding the circumstances surrounding the postponement of the January, 1999 hearing dates. The Panel's decision is reflected in its award in the section that follows.

AWARD

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

1. Claimants' motion for sanctions is granted. JMFG, Cohen, and J. Halpert are liable and shall pay Claimants the sum of \$1,000.00.
2. All other claims against the Respondents are dismissed in their entirety;
3. Claimants' request for punitive damages is hereby denied;
4. Each party shall bear their own costs, including attorneys' fees; and
5. All other requests for relief are hereby denied.

OTHER COSTS

Pursuant to Rule 10333 of the *NASD Code of Arbitration Procedure* ("Code") JFMG has paid NASD Regulation, Inc. the \$500.00 member surcharge previously invoiced.

Pursuant to Rule 10319 of the *Code*, Respondents' postponement fee of \$1,000.00 for the initial

postponement request was waived by the Panel, Respondents are however liable and shall pay to NASD Regulation, Inc. the sum of \$1,000.00 for the second postponement request.

FORUM FEES

Pursuant to Rule 10332(c) of the *Code*, the arbitrators have determined that NASD Regulation, Inc. will retain the \$250.00 non-refundable filing fee paid by the Claimant's and have assessed the following Forum Fees:

3 pre-hearing conferences X \$1,000.00	=	\$ 3,000.00
14 hearing sessions X \$1,000.00	=	<u>\$14,000.00</u>
Total	=	\$17,000.00

1. Claimant's are hereby liable and shall pay the sum of \$8,500.00, representing one-half of the total forum fees assessed.
2. JMFG, Cohen, and Halpert are hereby liable and shall pay the sum of \$8,500.00, representing one-half of the total forum fees assessed.

Claimants previously deposited \$1,000.00 with NASD Regulation, Inc. and, therefore, Claimants are liable for and shall remit the balance of \$7,500.00 to NASD Regulation, Inc.

ARBITRATION PANEL

Charles Kleinbaum, Esq. - Public Arbitrator/Chairperson
Theodore Brown - Industry Arbitrator
Oliver Wayne Williams, J.D. - Public Arbitrator

CONCURRING ARBITRATOR'S SIGNATURE

A handwritten signature in cursive script, appearing to read 'C Kleinbaum', written over a horizontal line.

Charles Kleinbaum, Esq.
Public Arbitrator/Chairperson

Date of decision: July 13, 1999

I, Charles Kleinbaum, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

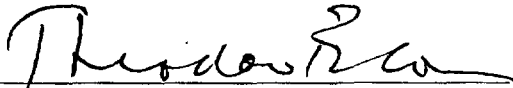
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Charles Kleinbaum, Esq.

ARBITRATION PANEL

Charles Kleinbaum- Public Arbitrator/Chairperson
Theodore Brown - Industry Arbitrator
Oliver Wayne Williams, J.D. - Public Arbitrator

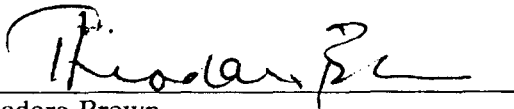
CONCURRING ARBITRATOR'S SIGNATURE

A handwritten signature in cursive script, appearing to read 'Theodore Brown', written over a horizontal line.

Theodore Brown
Industry Arbitrator

Date of decision: July 13, 1999

I, Theodore Brown, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.


A handwritten signature in cursive script, appearing to read 'Theodore Brown', written over a horizontal line.

Theodore Brown

ARBITRATION PANEL

Charles Kleinbaum - Public/ Chairperson
Theodore Brown- Industry Arbitrator
Oliver Wayne Williams, J.D. - Public Arbitrator

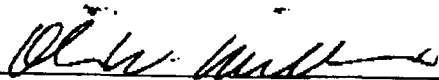
CONCURRING ARBITRATOR'S SIGNATURE



Oliver Wayne Williams, J.D.
Public Arbitrator

Date of decision: July 13, 1999

I, Oliver Wayne Williams, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.



Oliver Wayne Williams, J.D.