

# Dallas Business Journal

## Lawyers: Arbitration not Living Up to Its Rep

By **Dave Moore** | Staff Writer

Local lawyers are citing a recent case as an example of why arbitration isn't living up to its reputation for being quicker and cheaper than the jury trial system.

In August 2001, a pair of North Texas residents filed suit against American Investment Services Inc., claiming that the firm mishandled their investments. The investment group in April 2002 sold all its assets to Birmingham, Alabama – based SAL Financial Services Inc. and became insolvent.

The two residents, Ralph Nugent and Marc Chambers, then pursued SAL to recover their assets, only to be faced with a prolonged arbitration that led to a \$300,000 award in their favor. Now Nugent and Chambers must await a federal court decision on SAL's request to vacate the arbitration board's award.

Nugent and Chambers signed contracts that include arbitration agreements when they hired the investment firm to handle their money. Such is a common practice of the National Association of Securities Dealers, and its member companies.

Fort Worth lawyer Jason Stephens, one of the lawyers representing Nugent and Chambers, conceded that American investment Services' insolvency would have delayed any legal dispute, but he argues that arbitration slowed the process more than a jury trial system. Stephens is with law firm Stephens & Anderson LLP.

"I don't think the NASD has established control over the arbitration process," Stephens said. "It's a little bit willy nilly, if you will. It kind of floats along."

Dallas attorney David Clouston, who also is representing Nugent and Chambers, said the request by AIS to vacate the arbitration board's ruling is very frustrating. Clouston is with the Dallas Office of Patton Boggs LLP.

The arbitration process "was invented by the investment industry," Clouston said. "When they don't like the results, they're the ones who appeal it."

In its Nov. 6 motion to vacate the arbitration board's award, SAL claims that it didn't have any input in selecting the arbitration panel. The panel was chosen by AIS and the two plaintiffs. But Stephens cites arbitration transcripts that show a lawyer for SAL

said that he had no problem with the composition of the arbitration panel at the outset of arbitration with SAL.

Dallas attorney and sometime arbitrator Christopher Nolland said arbitration is generally more efficient.

He said challenging an arbitration award is more difficult than challenging a traditional court judgment.

Noland said motions to vacate arbitration awards are restricted to court errors or impropriety. Court order, on the other hand, can be over turned on technicalities, he said.

dmoore@bizjournals.com | 214-706-7112