

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between)
)
ANDREW J. BERGER,)
) Claimant,)
) Case #87-01883
vs.) Award
)
THE OHIO COMPANY and)
STEVEN GILBERT,)
) Respondents.)

Heard before the member of the Arbitration Panel:

Mr. Roger C. Benson

CASE SUMMARY

This claim was filed with the NASD, Inc. on September 5, 1987. The hearing was conducted in Tampa, Florida on December 11, 1989 with a total of one session.

Claimant, Andrew J. Berger ("Berger"), alleged that Respondents, The Ohio Company ("Ohio") and Steven Gilbert ("Gilbert"), were liable for Gilbert's failure to follow Berger's instructions. Specifically, Claimant alleged that on Gilbert's recommendation, he purchased Public Service of New Hampshire bonds and instructed Gilbert that he did not want to receive any margin calls and thereafter received two margin calls when the bonds declined in value. Respondents alleged that Claimant was informed of all the risks involved; was told that Gilbert could not assure him that he would not have a margin call; and, was a sophisticated investor. Gilbert also asserted a counterclaim wherein he alleged that: Berger's Claim is frivolous and malicious; has injured Gilbert's reputation; and, caused him unspecified damages. Berger answered the counterclaim and alleged that: he is not a sophisticated investor, and Gilbert did not fully explain the risks involved.

RELIEF REQUESTED

Claimant requested damages in the amount of \$4,500.00. Respondents requested dismissal of the claim and counterclaimed for unspecified damages, costs, and attorney's fees.

AWARD

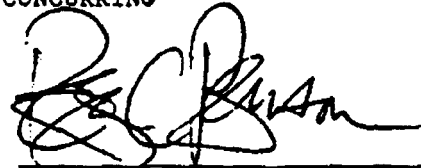
On December 11, 1989, the arbitrator heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant on November 10, 1987, and by Respondents Ohio on January 6, 1988, and Gilbert on January 7, 1988. The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has determined in full and final resolution of the issues submitted for determination as follows:

1. Respondents, Ohio and Gilbert, are hereby liable, jointly and severally, and shall pay to the Claimant the amount of One Thousand Six Hundred Fifty and 00/100 (\$1,650.00) Dollars.
2. Claimant/Counter Respondent, Berger, is not liable to the Respondent/Counter Claimant, Gilbert, and, therefore, all counterclaims against him are hereby dismissed.
3. Respondent's request for attorney's fees is hereby dismissed in all respects.
4. Pursuant to Section 43 of the Code of Arbitration Procedure, the arbitrator has assessed Claimant forum fees in the amount of One Hundred and 00/100 (\$100.00) Dollars. The National Association of Securities Dealers, Inc. shall retain the One Hundred and 00/100 (\$100.00) Dollar filing fee previously deposited by the Claimant in full satisfaction of such forum fees.
5. The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding.

OTHER ISSUES

None.

ARBITRATOR CONCURRING

A handwritten signature in black ink, appearing to read "R. C. Benson", written over a horizontal line.

Mr. Roger C. Benson

DATED: January 19, 1990