

PUBLIC

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

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In the Matter of the Arbitration Between :

Mary C. Berry :

Claimant :

CASE #91-01096  
AWARD

vs. :

Dain Bosworth, Inc. :

Anthony M. Quirini :

The Milwaukee Co. :

Hamilton Investment, Inc. :

Respondents :

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CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on April 8, 1991, Claimant Mary C. Berry who appeared Pro Se, alleged that Respondent Anthony Quirini while employed by Dain Bosworth, Inc. recommended she purchase Kemper Multi Market Income Trust and Chase Manhattan Corp. Stock which were unsuitable investments and not in accordance with her need for a conservative, high yield investment. The Claimant further alleged that Mr. Quirini misrepresented facts regarding these investments, and that she discovered the truth only when she got prospectuses from these companies themselves, since her broker never provided her with them. Claimant Mary Berry alleged further that Respondent Anthony M. Quirini left the Milwaukee Co., Dain Bosworth, and that he joined Hamilton Investment, Inc.

Respondent, Dain Bosworth, through its in-house representative Marcia L. Hansen maintained that it did not engage in any wrongdoing with respect to the Claimants' account and that it seems that Mr. Quirini attempted to satisfy her desire for a high monthly income when he recommended Kemper. Respondent Dain Bosworth further maintained that the Claimant has not been damaged in any way since her account generated a profit for approximately \$5,500.00.

Respondent Hamilton Investments filed a motion requesting they be dismissed from this matter, in addition to its answer through it's counsel Sharon J. Terrell, in which it denied having direct knowledge with regard to the claim, since the complaint took place prior to Mr. Quirini joining Hamilton Investments.

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Respondent, Anthony M. Quirini, who appeared Pro Se, maintained that the Claimant knew there was a risk, she needed a high income and she lost money, but that her investments were suitable and she received all relevant information at the time. Respondent Quirini further maintained that had the Claimant held onto her investment, her losses would have declined substantially.

Respondent, The Milwaukee Co. failed to file a Statement of Answer.

RELIEF REQUESTED

Claimant, Mary C. Berry requested \$5,656.00 in actual damages and return of the NASD filing fee.

Respondent, Dain Bosworth requested the claims of the Claimant be dismissed.

Respondent, Hamilton Investments requested they be dismissed from this matter as an improper party.

Respondent, The Milwaukee Co. failed to file an answer to the claim.

Respondent, Anthony M. Quirini requested the claims of the Claimant be dismissed.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Albert A. Epstein, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on December 18, 1990 and by the Respondent Dain Bosworth, Inc. August 30, 1991 and Anthony M. Quirini on August 30, 1991, but not signed by The Milwaukee Co. or Hamilton Investments as required by Sections 12 and 132 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure.

1. In accordance with Section 13 of the NASD Code of Arbitration Procedure the Respondent, The Milwaukee Co. was served by certified mail and given the opportunity to respond, which it failed to do. Service of the claim was effected as evidenced by the signed return receipt.

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Notification of the Arbitrators identity was served as evidenced by the signed return receipt card.

2. Pursuant to the By-Laws of the NASD the arbitrator determined that Respondent The Milwaukee Co. was required to submit to this arbitration proceeding and is, therefore, bound by the arbitrator's ruling and determination.

And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The claims of the Claimant Mary C. Berry against respondents, The Milwaukee Company, Hamilton Investments, Dain Bosworth, Inc and Anthony Quirini are dismissed in their entirety.

2. The parties shall bear their respective costs.

3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD.

AFFIRMATION

I, ALBERT A. EPSTEIN, do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.

  
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Signature of Arbitrator

DATE OF DECISION:

*June 26, 1992*

DATED BY NASD, INC., ..July.7.,1992....