

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

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In the Matter of the Arbitration Between :

Adrian J. Good :

Claimant :

vs. :

D.H. Blair & Co., Inc. :  
Wolfgang Hein :

Respondents :  
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**PUBLIC**

**CASE #91-03228  
AWARD**

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on October 15, 1991, Claimant, Adrian J. Good, who appeared Pro Se, alleged on May 14, 1990 that Respondent, Wolfgang Hein, a registered representative with Respondent, D.H. Blair & Co., Inc. solicited him to sell his 100 shares of H & R Block, Inc. and with the proceeds, purchase 2,300 shares of Cattleguard Incorporated by misrepresenting the degree of risk and probability of a high return. Claimant further alleged that Respondent, Wolfgang Hein failed to properly follow his conservative investment objectives when he sold him the unsuitable, highly speculative security of Cattleguard Incorporated. Claimant contended that Respondent, D.H. Blair & Co., Inc. was a market maker in this stock and therefore, manipulated the price of the stock to maintain the high price until they sold it. Claimant further contended that when the price of the stock dropped due to unfavorable news in the Wall Street Journal, he contacted Respondent, Wolfgang Hein, who advised him to hold the stock because it was a sound company and sure to come back. Claimant asserted that Respondents, D.H. Blair & Co., Inc. and Wolfgang Hein were aware of the negative news concerning Cattleguard Incorporated prior to its publication and used it fraudulently to their profit and Claimant's loss. Claimant further asserted that Respondent's, D.H. Blair & Co., Inc. failure to properly supervise its broker Respondent, Wolfgang Hein, allowed him to commit violations of industry rules and Respondents breached their fiduciary duties by their acts and omissions, thus, causing losses to Claimant.

Respondents, D.H. Blair & Co., Inc. and Wolfgang Hein by and through their in-house counsel, William Badinelli, Esq., maintained that on February 21, 1990 Claimant, Adrian J. Good opened an

account and purchased 100 shares of H & R Block, Inc. at the recommendation of Respondent, Wolfgang Hein. Respondents further maintained that when Claimant opened the account he informed Respondent, Wolfgang Hein that he was an investor with 25 years of experience and did not inform Respondents that his investment objectives were conservative. Respondents contended that Respondent, Wolfgang Hein discussed and recommended the Cattleguard Incorporated stock to Claimant and Claimant instructed him to purchase 2,300 shares by using his proceeds of the H & R Block, Inc. sale to pay for this purchase. Respondents further contended that Cattleguard Incorporated was not a company with any type of esoteric product and was a restaurant franchiser to which Claimant made a favorable comment about after eating in one of its restaurants. Respondents asserted that it is highly likely that Claimant's positive, first hand experience with Cattleguard Incorporated significantly influenced him to purchase shares in the company and was not solely based on the recommendation of Respondent, Wolfgang Hein. Respondents further asserted that they deny any wrongdoing and Claimant wanted Respondents to guarantee profits with risk of loss.

#### RELIEF REQUESTED

Claimant, Adrian J. Good requested \$3,667.88 in actual damages plus Punitive damages and costs.

Respondents, D.H. Blair & Co., Inc. and Wolfgang Hein requested the claim be dismissed and costs be assessed against Claimant.

#### AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Shelby R. Grubbs, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on October 3, 1991, by the Respondent, D.H. Blair & Co., Inc. on December 6, 1991 and by the Respondent, Wolfgang Hein on December 13, 1991.

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 Claimant, Adrian J. Good against Respondents, D.H. Blair & Co., Inc. and Wolfgang Hein are dismissed.

2. The Claimant's request for Punitive damages is denied.
3. The parties shall bear their respective costs.
4. The \$125.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant, Adrian J. Good shall be retained by the NASD, Inc.

AFFIRMATION

I, SHELBY R. GRUBBS, ESQ., 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 16, 1992