

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Robert Myers

91-04112

Name of Respondents

American Trading & Investment, Inc.,  
Jeffrey Myers and  
Ron Wigington

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REPRESENTATION

For Claimant: Gretchen Z. Kennedy, Esq. of Day Hewett & Federman, Oklahoma City, Oklahoma.

For Respondents American Trading & Investment, Inc. and Ron Wigington: A. Daniel Woska, Esq. of Naifeh & Woska, Oklahoma City, Oklahoma and Tom Tays, Esq. of American Trading & Investment, Inc., Oklahoma City, Oklahoma. For Respondent Jeffrey Myers: Pro Se.

CASE INFORMATION

Statement of Claim filed: December 27, 1991.

Claimant's Submission Agreement signed on: December 16, 1991.

Joint Statement of Answer filed by Respondents American Trading & Investment, Inc. and Ron Wigington on: February 6, 1992.

Respondents American Trading & Investment, Inc. and Ron Wigington's Submission Agreement signed on: February 3, 1992.

HEARING INFORMATION

Hearing Dates/Sessions: August 26, 1992 for two (2) sessions,  
September 4, 1992 for two (2) sessions.

Hearing Location: Oklahoma City, Oklahoma.

CASE SUMMARY

Claimant Robert Myers ("Myers") alleged that Respondent Jeffrey Myers ("Jeffrey"), account executive for Respondent American Trading & Investment, Inc. ("American") purchased 20,000 shares of stock in ALFA International Corporation, alleged to be a speculative "penny stock" with a high beta coefficient, for Myers's account. Myers alleged that his investment experience had been extremely limited and his prior investment experience had been in risk-free, fully insured, investments. Myers alleged that he wanted very secure and safe investments that would provide steady income for his mother's retirement. Myers alleged that American was negligent in approving such transaction and failed to provide adequate supervision. Myers further alleged that Respondent, Ron Wigington, President of American, was also liable. Myers also alleged that Jeffrey executed a Promissory Note on American stationary, for money which Myers lent to Jeffrey, and which was deposited into Jeffrey's personal account with American. Myers alleged that Jeffrey guaranteed a profit to Myers and further represented to Myers that the money "would not be placed at risk."

Respondents American and Ron Wigington ("Wigington") alleged that the investment which Jeffrey made for Myers was a suitable investment for high income, high net worth individuals with most of their investments in real estate, such as Myers. American and Wigington also alleged that Jeffrey acted properly and in conformance with Myers's stated investment objective when selling him Alfa stock. American and Wigington alleged that they had no knowledge of, and has never seen any promissory notes issued in favor of Myers, and that no officer, director, or any party with actual or apparent authority has signed any promissory notes to Myers.

RELIEF REQUESTED

Claimant requested: compensatory damages, together with the growth and income his money should have earned to make him whole, pre-judgment interest on the compensatory damages, attorney's fees in the amount of \$9,042.50, expert witness fees, and costs, punitive damages, civil penalty and such other relief

as the Arbitration Panel finds appropriate under the circumstances.

Respondents American Trading & Investment, Inc. and Ron Wigington requested: that the Claimant take nothing by way of their statement of Claim, that the action be dismissed with prejudice, and that Respondents recover their costs herein, including, if applicable, a reasonable attorney's fee, and such other and further relief as may be just and equitable.

#### 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 originals remain on file with the NASD.

Respondent Jeffrey Myers did not file an Answer or a Submission Agreement to the Statement of Claim, but is required to submit to arbitration pursuant to Section 12 of the Code, and having appeared and testified at the hearing, is bound by the determination of the arbitration panel on all issues submitted.

#### AWARD

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

1. Respondent Jeffrey Myers shall be and hereby is liable for and shall pay to the Claimant Robert Myers, compensatory damages in the amount of One Hundred Thousand Dollars (\$100,000);
2. The Statement of Claim against Respondents American Trading & Investment, Inc. and Ron Wigington is dismissed and denied in its entirety;
3. Each of the parties shall bear their own costs and expenses incurred, including attorney's fees, other than those specifically enumerated for herein.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed:

4 sessions X \$500.00 = \$2,000.00 minus hearing session deposit of \$500.00 = net \$1,500 due.

Forum fees Assessed Against: Respondents American Trading & Investment, Inc. and Ron Wigington, jointly and severally, in the amount of \$1,500.00.

Fees are payable to the National Association of Securities Dealers, Inc.

By The Arbitration Panel:

Dated:

October 17, 1992

/s/ Frank A. Molenda, Esq.  
Frank A. Molenda, Esq., Chairperson  
Public Arbitrator

October 21, 1992

/s/ John E. Ulrey, Sr.  
John E. Ulrey, Sr.  
Public Arbitrator

October 19, 1992

/s/ R. Randall Richison  
R. Randall Richison  
Industry Arbitrator

Date Award Served by the NASD: October 26, 1992