

PUBLIC

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between :
Thomas E. Fairbank :
Claimant :
vs. : CASE #92-01425
D.H. Blair & Co., Inc. : AWARD
Respondent :

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on April 27, 1992, Claimant Thomas E. Fairbank, who appeared Pro Se, alleged that Respondent D.H. Blair & Co., Inc. failed to secure information about his background, risk tolerance and investment goals. Claimant further alleged that from March, 1990 to April, 1991 Respondent D.H. Blair & Co., Inc., by and through Robert Manella and Richard Gaylos, handled his account whereby they made decisions together on behalf of his account. Claimant contended that after the April 9, 1991 decision to buy "Legends", contact with a broker disappeared, at which time, no one contacted Claimant in writing or by phone and Claimant's calls were not accepted. Claimant further contended that on September 27, 1991, after getting the runaround, Respondent D.H. Blair & Co., Inc. by and through, Richard Molisky told Claimant that he was his broker and handled Claimant's request to sell his stocks, at which time, he would send Claimant the proceeds. Claimant asserted that after 3 or 4 calls to Bill Gable, office manager at Respondent D.H. Blair & Co., Inc., he finally received his \$2,483.37 on October 25, 1991. Claimant further asserted that he lost \$2,702.00 on News Comm. and PureTech which was no ones fault and lost \$4,006.00 on Legends, which Claimant contends was a totally unsuitable investment for Claimant. Claimant argued that Respondent did not take appropriate steps to provide Claimant with reasonable broker services, proper advice, and timely payment of funds, in addition to failing to deliver the Legend stock certificates.

Respondent D.H. Blair & Co., Inc. by and through William Badinelli, maintained that Claimant Thomas E. Fairbank's Statement of Claim is deficient according to NASD guidelines and Claimant had a history of investing in securities that had a high degree of risk, in addition to the fact that Claimant does not make any

specific claim for damages. Respondent further maintained that Claimant apparently feels he is entitled to some type of adjustment because the investment in Legends, Co., made with his specific knowledge and authorization, was "unsuitable", which is completely false and is merely an exercise of 20/20 hindsight. Respondent contended that Claimant made his own investment decision and received regular account statements whereby he was willing to speculate with the amount invested, therefore, Respondent is not liable for any losses to Claimant.

RELIEF REQUESTED

Claimant Thomas E. Fairbank requested \$2,500.00 in actual damages.

Respondent D.H. Blair & Co., Inc. requested the claim be dismissed.

AWARD

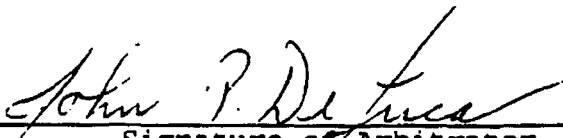
Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, John P. DeLuca, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on May 29, 1992 and by the Respondent on July 31, 1992.

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 claim of Claimant Thomas E. Fairbank against Respondent D.H. Blair & Co., Inc. is dismissed.
2. The parties shall bear their respective costs.
3. The \$50.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Thomas E. Fairbank shall be retained by the NASD, Inc.

AFFIRMATION

I, JOHN P. DELUCA, 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.



Signature of Arbitrator

DATE OF DECISION: November 10, 1992

STATE OF: New York

SS:

COUNTY OF: ERIE

On this 2 day of November 1992, before me personally appeared John P. DeLuca to me known and known before me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.



CANDY BRUSCO
Notary Public, State of New York
Qualified in Erie Co. No. 04870007004
My Commission Expires June 16, 94