

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Barbara D. Case

92-02153

Name of Respondent

Gregory Ferguson

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on June 29, 1992, Claimant Barbara D. Case, who appeared Pro Se, alleged that Respondent Gregory Ferguson, while employed by E.F. Hutton, failed to get her out of Malrite Broadcast Partnership, even though he discovered it was not a good investment and got all of his other clients out of it. The Claimant further alleged that Respondent Gregory Ferguson contended that she couldn't be reached, because she was out of the country, but she was not. The Claimant contended that she should be compensated for her losses, since she should never have been sold this investment in the first place.

Respondent Gregory Ferguson, who appeared Pro Se, maintained that this investment was suitable for the Claimant, and that although he did sell this stock which others of his clients held. Ms. Case travelled extensively during that period and he was unable to reach her for authorization to sell the position. The Respondent further maintained that he should not be held liable because the Claimant failed to mitigate her damages.

Claimant Barbara D. Case filed a Reply to the Respondent's Answer in which she refuted his defenses and reiterated that Respondent Gregory Ferguson was negligent in not liquidating her Malrite position, therefore she should be compensated for her loss.

RELIEF REQUESTED

Claimant Barbara D. Case requested \$9,000.00 in actual damages.

Respondent Gregory Ferguson requested that 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, Roger C. Benson, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on June 23, 1992 and by the Respondent on September 7, 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 claims of the Claimant Barbara D. Case against Respondent Gregory Ferguson 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, Inc.

AFFIRMATION

I, **ROGER C. BENSON**, 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.

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

Signature of Arbitrator

DATE OF DECISION:

March 31, 1993