

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Robert P. Hamlen

92-03740

Name of Respondents

D.H. Blair & Company
Gregory V. Carter

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on November 4, 1992, Claimant Robert P. Hamlen, who appeared Pro Se, alleged that on February 22, 1992, Respondent Gregory V. Carter, Account Executive at Respondent D.H. Blair & Co., Inc. solicited him to purchase 1,900 Lidak Pharmaceuticals warrants at \$1.50 per share whereby Claimant agreed to sell another stock to make the purchase. Claimant further alleged that after the purchase of Lidak Pharmaceuticals, he discovered that the warrants were exercisable at a stock price of \$1.50 and within about a month, Respondent Gregory V. Carter informed him that Lidak Pharmaceuticals was calling the warrants, since there was a stipulation in their original offering that if the stock price rose above a price of \$2.10 for at least one month, they had the right to do so. Claimant contended that shortly after his purchase, the price of Lidak had done this for just over a month and then dropped back down substantially to about \$1.50, whereby Claimant subsequently sold his warrants for a price of \$0.37, since they would have been worthless by May 11. Claimant further contended that Respondent Gregory V. Carter should have made him aware of the stipulation that the stock could be called and should have advised Claimant to sell his warrants as soon as the price reached this point whereby Claimant might have recovered at least a substantial fraction of his original money. Claimant asserted that Respondent Gregory V. Carter should have appraised him of the risks and details of the offering. Claimant further asserted that Respondent Gregory V. Carter's inappropriate handling of his funds and Respondent D.H. Blair & Co., Inc. failure to rectify the situation, caused him to sustain losses.

Respondents D.H. Blair & Co. and Gregory V. Carter by and through their in-house counsel William Bandinelli, Esq., maintained that Claimant Robert P. Hamlen has previously made the allegations stated in his Statement of Claim to various regulatory agencies including the Securities and Exchange Commission and the National Association of Securities Dealers, Inc. whereby they cooperated fully with all inquiries and received a letter dated September 15, 1992 from the Association which stated in part, "we have reviewed the report of this investigation and determined no action is warranted regarding the activities of your firm and Gregory V. Carter." Respondents further maintained that on April 10, 1992 Lidak Pharmaceuticals elected to redeem the class A warrants whereby the price of the warrants did decline on this announcement and Respondent Gregory V. Carter advised Claimant to exercise the warrants, at which time, Claimant disregarded the recommendation and made his own investment decision, for which he now seeks indemnification from Respondent, thus, the claim should be dismissed.

RELIEF REQUESTED

Claimant Robert P. Hamlen requested \$2,249.00 in actual damages.

Respondents D.H. Blair & Co. and Gregory V. Carter 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, Arnold O. Flicker, 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 December 11, 1992 and by the Respondents on January 25, 1993.

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 Robert P. Hamlen against Respondents D.H. Blair & Co., Inc. and Gregory V. Carter 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 Robert P. Hamlen shall be retained by the NASD, Inc.

AFFIRMATION

I, **ARNOLD O. FLICKER, 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.

Arnold O. Flicker
Signature of Arbitrator

DATE OF DECISION: June 8, 1993

STATE OF: New York

SS:

COUNTY OF: Westchester

On this 1 day of June 1993, before me personally appeared Arnold O. Flicker, Esq. 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.

Louis Gerstein Louis GERSTEIN
Notary Public State of N. Y.
Qualified in Westchester County
649 P 300
Exp 5/31/94