

## N.A.S.D. AWARD

## NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration BetweenName of Claimant

Allan Hamm

93-00859

Name of Respondent

Hibbard Brown &amp; Co., Inc.

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CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on March 8, 1993, Claimant Allan Hamm, who appeared Pro Se, alleged that on March 29, 1991, he purchased 600 shares of Trans Atlantic Video (Diamond Entertainment) at 1 5/8 through Respondent Hibbard Brown & Company, Inc. Claimant further alleged that he was told by Respondent that it was a good investment and the company was planning on breaking into the European market; however, Claimant was not told that the President of Trans Atlantic Video had died. Claimant contended that this was his first purchase of this type of investment and asked what he should do when the stock goes down and was told that if the price goes down he should buy more to make the highest profit when the price goes up. Claimant further contended that on June 7, 1991 he purchased a \$1,000 bond with 200 shares of Great American Recreation and was told it would soon be the "Disney of the Northeast", and very profitable. Claimant asserted that on July 2, 1991, he purchased 150 shares of CCC Fran at \$7.00 and was told it went from \$4.25 to \$7.00 and was "going to go through the roof" so Claimant "must purchase" this stock. Claimant further asserted that on August 14, 1991 he purchased Diamond Entertainment at 1.5 because he was told to strengthen his position on his stock. Claimant further alleged that on August 30, 1991 he purchased 250 shares of Site Based Media at 2.25 and was told it was a major up and coming company in the forefront of technology and would sweep all competitors out the door whereby, when the price went to 4 1/8 to sell. Claimant further contended that when the price went down he called Respondent to see when he would get his money but was told the stock was not sold because it is a good stock and would come right back. Claimant further asserted that believing the information he was told was correct, he purchased on August 28, 1992 another 1,000 shares of Diamond Entertainment at 9/16 and on December 13, 1992 another 250 shares of Site Based Media at 1 1/8. Claimant further alleged that every time he

said anything about selling a stock he was told not to as they are all very good with some of the best research backing the recommendations. Claimant further contended that Respondent deliberately withheld the information on the companies and he was defrauded by Respondent which caused Claimant to lose money in his account.

Respondent Hibbard Brown & Company, Inc. by and through their in-house counsel Steven B. Caruso, Esq., maintained that it is unable to discern any evidence of misconduct or impropriety which could warrant consideration of the relief requested. Respondent further maintained that each and every investment recommendation was accompanied by a fair and balanced presentation as to both the investment merits and risks that were associated with the same and there is no evidence of misconduct or impropriety by the Respondent.

### **RELIEF REQUESTED**

Claimant Allan Hamm requested \$10,000.00 in actual damages.

Respondent Hibbard Brown & Company, Inc. requested that the claim be dismissed in its entirety and that Respondent be awarded such relief as may be deemed just, proper and equitable under the circumstances including reimbursement of counsel fees.

### **AWARD**

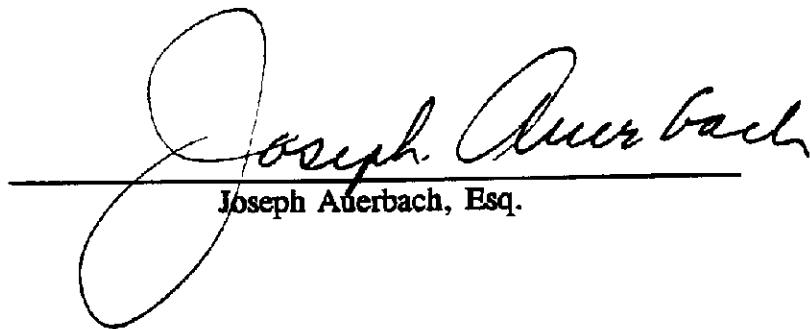
Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Joseph Auerbach, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on March 3, 1993 and by the Respondent on May 24, 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 Allan Hamm against Respondent Hibbard Brown & Company, Inc. is dismissed.
2. The parties shall bear their respective costs, including counsel fees.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Allan Hamm shall be retained by the NASD, Inc. Respondent Hibbard Brown & Company, Inc. is liable and shall pay to the Claimant the sum of \$75.00, as partial reimbursement.

**AFFIRMATION**

I, JOSEPH AUERBACH, 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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Joseph Auerbach, Esq.

DATE OF DECISION: September 27, 1993