

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant(s)

Eugene Howard

93-01085

Name of Respondent(s)

William Dodson

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**REPRESENTATION**

For Claimant, Eugene Howard ("Howard"), Russell L. Forkey, Esq. of Deerfield Beach, Florida.

For Respondent, William Dodson ("Dodson"), Lloyd R. Schwed, Esq. of Honigman Miller Schwartz and Cohn in Miami, Florida.

**CASE INFORMATION**

Statement of Claim filed: March 19, 1993.

Claimant's Submission Agreement signed: March 16, 1993.

Statement of Answer filed by Respondent, Dodson: June 22, 1993.

Respondent, Dodson's Submission Agreement signed: July 16, 1993.

**HEARING INFORMATION**

On December 28, 1993, in Ft. Lauderdale, Florida, a Pre-hearing Conference lasting one session was conducted via telephone conference call with an arbitrator.

On June 8 and 9, 1994, in Ft. Lauderdale, Florida, hearings lasting four sessions were conducted.

### CASE SUMMARY

Claimant, alleged that Respondent fraudulently misrepresented his expertise in options trading; that Respondent breached his fiduciary duties in a discretionary account; that Respondent was negligent and that Respondent offered to sell unregistered securities in contravention of the Securities Act of 1933.

Respondent alleged that Claimant assumed the risk of the options trading and that he never had discretionary authority of Claimant's account. Respondent raised the affirmative defense of statute of limitations.

### RELIEF REQUESTED

Claimant requested: compensatory damages of \$87,329.36; interest; costs recissionary damages of \$24,954.08 and any other relief the panel may deem appropriate.

Respondent requested: dismissal of the claim, attorney's fees and costs.

### OTHER ISSUES CONSIDERED & DECIDED

1. 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 original remains on file with the NASD.
2. Based on the Award below, Respondent's motion for summary dismissal is moot.

### AWARD

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

1. Respondent, Dodson, is found not liable and, therefore, all claims against him are hereby dismissed.
2. Claimant's request for costs is denied.

**OTHER COSTS**

The parties shall each bear the costs and expenses incurred by them in connection with this proceeding, except for forum fees listed below.

**FORUM FEES**

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of \$3,300.00 (1 pre-hearing conference x \$300.00 plus 4 sessions x \$750.00).

1. Claimant is hereby assessed \$3,300.00 for which the NASD shall retain the \$750.00 previously deposited in partial satisfaction thereof, leaving a balance due to the NASD of \$2,250.00.

2. The NASD shall retain the nonrefundable filing fee of \$200.00.

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

**Concurring Arbitrators' Signatures**

Name	Public/Industry
<u>/s/</u> Anthony J. Titone, Esq.	Public
<u>/s/</u> Meah Dell Rothman, Tell, Esq.	Public
<u>/s/</u> Donald R. McGahan	Industry

Date of Decision: 8-4-94