

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

Grant Dean Buick Retirement
Trust, Robert Andrea, Trustee
Claimant,

v.

No. 93-01232

Hamilton Investments, Inc.
Respondent.

REPRESENTATION OF PARTIES

For Claimant: Mitchell L. Perlstein, of Parker Perlstein & Co., Boca Raton, Florida.

For Respondents: Rosemarie J. Guadnolo, Esq., of Horvath & Lieber, P.C., Chicago, Illinois.

CASE INFORMATION

Statement of Claim filed on or about March 29, 1993.

Submission Agreements signed on behalf of Claimant, and by the Trustee signed on arch 17, 1993 and April 22, 1993, respectively.

Respondent's Statement of Answer filed on or about July 1, 1993.

Respondent's Submission Agreement signed on June 23, 1993.

Respondent's Amendment to Answer filed on or about October 27, 1993.

Respondent's Counterclaim filed on or about October 27, 1993.

HEARING INFORMATION

Pre-hearing Conference dates: December 22, 1993. One (1) session.

Hearing date: February 16, 1994. Two (2) sessions.
February 17, 1994. Two (2) sessions.

Hearing Location: Chicago, Illinois.

CASE SUMMARY

Claimant, Grant Dean Buick Retirement Trust, Robert Andrea, Trustee ("Claimant") made the following allegations against Respondent/Counterclaimant, Hamilton Investments, Inc. ("Respondent"): Unsuitable investments; breach of contract; breach of fiduciary duty; misrepresentation/fraud; negligence and gross negligence; and misrepresentation in the offering of securities. The allegations arose out of the purchase of an interest in the S.S. Monterey Limited Partnership for Claimant's account.

In Its Answer, unless specifically admitted therein, Respondent denied the allegations contained in the Statement of Claim. In addition, Respondent asserted that in addition to being untimely under Section 15 of the NASD Code of Arbitration Procedure (the "Code"), the six counts of the Statement of Claim are barred by the applicable federal and Illinois limitations periods, and by the doctrine of laches. In addition, Respondent filed a Counterclaim seeking to have the Statement of Claim dismissed because of the alleged untimeliness of filing both under Section 15 of the Code and under federal and Illinois limitations periods.

RELIEF REQUESTED

Claimant requested the following relief:

(a) Claimant requested compensatory damages in the amount of Claimant's initial investment (\$120,000.00) plus the amount said investment would have earned had the investment been in a well managed account less the amount of distributions received by Claimant;

(b) Costs and fees of this action and costs and expenses of expert witnesses;

(c) Reasonable counsel's fees;

(d) Punitive damages as the arbitrators find appropriate; and

(e) Such other and further relief as the arbitrators find appropriate under the circumstances.

Respondent requested that the Statement of Claim be dismissed. In addition, in its Counterclaim, Respondent requested an Award: (a) Declaring that the claims of Counterrespondent Grant-Dean Buick Retirement Trust, Robert Andrea, Trustee arising and relating to the purchase of an interest in the S.S. Monterey Limited Partnership are not timely and are therefore barred; (b) entering any additional relief appropriate; and (c) allowing Respondent its costs.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this matter may be executed by 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(s) remain on file with the NASD.

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:

Claimant's, Grant Dean Buick Retirement Trust, Robert Andrea, Trustee, claims are denied and dismissed with prejudice.

OTHER COSTS

Each party shall bear its own costs associated with this arbitration, including attorneys' and representative's fees, except as set forth more fully below.

FORUM FEES

Pursuant to Section 43(c) of the Code, the following forum fees are assessed:

1 pre-hearing conference sessions x \$300.00 = \$300.00
4 hearing sessions x \$750.00 = \$3,000.00

Pursuant to Section 43(c) of the Code, the NASD shall retain the nonrefundable filing fee in the amount of \$200.00, and shall **RETAIN** the hearing session deposit in the amount of \$750.00 previously paid to the NASD by the Claimant.

Additional Forum Fees in the amount of \$2,250.00 are assessed against the Claimant.

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

CONCURRING ARBITRATORS

Dated:

Name:

March 9, 1994

Arthur Medow/s/
Arthur Medow
Presiding Chair
Public Arbitrator

March 5, 1994

John R. Lavery/s/
John R. Lavery
Public Arbitrator

March 4, 1994

Thomas E. Burke/s/
Thomas E. Burke
Industry Arbitrator

Date of Service by the NASD: 3-9-94