

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

Name of Claimant

Michael F. Gelineau

93-01640

Name of Respondents

Hibbard Brown & Co., Inc.,
and Leonard A. McAbee

REPRESENTATION OF PARTIES

For Claimant, Michael Gelineau, at the hearing: Bruce Baldinger, Esq., Somerville, New Jersey.

For Respondents, Hibbard Brown & Co., Inc. and Leonard McAbee, at the hearing: Mark Maddox, Esq. of Coons, Maddox & Kueller, Indianapolis, Indiana.

CASE INFORMATION

Statement of Claim filed on: July 1, 1993. Claimants' Submission Agreement signed: March 23, 1993.

Joint Statement of Answer/Affirmative Defenses and Motion To Strike, filed by Respondents on: July 1, 1993. Respondents' Submission Agreements signed on: June 30, 1993.

HEARING INFORMATION

Hearing date: March 17, 1994 for three (3) sessions.

Hearing Location: Chicago, Illinois.

CASE SUMMARY

Claimant, Michael F. Gelineau ("Gelineau") alleged that Respondents, Hibbard Brown & Company, Inc. ("Hibbard") and Leonard A. McAbee ("McAbee") recommended and purchased unsuitable investments in Gelineau's account held with Hibbard and also mishandled and made blatant misrepresentations regarding Gelineau's account, breached the fiduciary relationship, failed to supervise, breached the contract, and violated the antifraud provisions of the Securities and Exchange Act of 1934. Gelineau alleged that McAbee purchased Great American Recreation Preferred stock, U.S.

Transportation System Units, CCC Franchising Corporation, Digital Products Corporation Units, Gentner Communications Corporation, and Site Based Media.

Respondents, Hibbard and McAbee stated in their Answer that the investments purchased for Gelineau were suitable given his occupation, experience level, and net worth. Hibbard and McAbee further alleged that Gelineau knew the risks and chose to assume them.

RELIEF REQUESTED

Claimant requested an award of \$118,143.00 as follows: full restitution of losses and to be made whole in the amount of \$39,381.00; punitive damages amounting to two times the actual loss or \$78,762.00; pre-award and post-award interest; filing fees and expenses of at least \$950; attorney's fees in the amount of \$35,443.00; expert fees of at least \$3000.00; and for such other relief as the panel deems just and proper.

Respondents requested that the Statement of Claim be dismissed in its entirety and that they be awarded such relief as may be deemed just, proper and equitable, including attorney's fees.

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 originals 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:

1. Respondent, Hibbard Brown & Co., Inc. shall be and hereby is liable for, and shall pay to the Claimant, Michael Gelineau, damages in the amount of Twenty Thousand Dollars (\$20,000.00);
2. Respondent Leonard McAbee is dismissed;
3. Claimant's request for punitive damages is denied;
4. Claimant's request for interest is denied;
5. Each of the parties shall bear their own costs and expenses, including attorney's fees and expert witness fees, other than those specifically enumerated herein.

FORUM FEES

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

3 hearing sessions x \$750 = \$2250.

Pursuant to Section 43(c) of the Code, the NASD shall retain the nonrefundable filing fee in the amount of \$200 and shall retain the hearing session deposit in the amount of \$750 previously paid to the NASD by Claimants.

Respondent, Hibbard Brown & Co., Inc. shall pay to the NASD additional forum fees in the amount of \$1500. In addition to the amount to be paid to the NASD, Respondent, Hibbard Brown & Co., Inc. shall reimburse to the Claimant, Michael Gelineau, the amount of \$950 which represents the claim filing fee and the hearing session fee which was previously deposited by the claimant with the NASD.

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

By The Arbitration Panel:

Dated:

5-25-94

s/s John E. McGovern, Jr., Esq.
John E. McGovern, Jr., Esq.
Presiding, Public Arbitrator

5-27-94

s/s Roger B. Johnston
Roger B. Johnston
Public Arbitrator

5-20-94

s/s Robert J. Larson
Robert J. Larson
Industry Arbitrator

Date Award Served By The NASD: 6-1-94