

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

Dr. Michael A. Disbro, and
Nicola M. Disbro,

Claimants,

v.

No. 93-02119

R.G. Dickenson & Co, n/k/a
Dickenson & Co.,

Respondent.

REPRESENTATION OF PARTIES

Claimants, Dr. Michael A. Disbro and Nicola M. Disbro ("Claimants") were represented by Bruce Pearson of Fargo, North Dakota.

Respondent Dickenson & Co. ("Respondent") was represented by David C. Lundsgaard, Esq., of Dorsey and Whitney, Minneapolis, Minnesota.

CASE INFORMATION

Claimants' Statement of Claim was filed on or about May 13, 1993. Claimants' Submission Agreement was signed on May 13, 1993.

Respondent's Statement of Answer was filed on or about July 26, 1993, and its Submission Agreement was signed on July 21, 1993.

HEARING INFORMATION

Hearing dates: September 12, 1994. Two (2) sessions.
September 13, 1994. One (1) session.

Hearing Location: Omaha, Nebraska.

CASE SUMMARY

Claimants alleged that Respondent violated Rule 10b5 of the Securities Act in that it failed to perform adequate due diligence, made misleading statements, omitted material facts, and breached their fiduciary responsibility. The allegations arose out of the purchase, in the fall of 1990, of a partnership interest in Signal II Natural Gas Partners.

In its Answer, Respondent, unless specifically admitted, denied each and every allegation in the Statement of Claim. In addition, Respondent asserted the following affirmative defenses:

1. Claimants may not recover under the Statement of Claim because the Statement of Claim failed to state a claim upon which relief may be granted.
2. Claimants' actions or inaction bar them from recovery under the Statement of

Claim by reason of the doctrine of waiver.

3. Claimants' actions or inaction bar them from recovery under the Statement of Claim by reason of the doctrine of estoppel.

4. Claimants have suffered no damages as a result of any alleged wrongful actions or inaction on the part of Respondent.

5. Claimants' claims are barred or reduced by reason of their own negligence and failure to exercise such diligence with respect to their investments as would be expected of a reasonable person under the same circumstances.

6. Claimants' losses, if any, were caused or contributed to by the acts of Signal and its personnel over whom Respondent did not have control and for whom Respondent is not responsible.

7. Bruce Pearson lacks standing or legal authority to bring this action or to represent Claimants.

RELIEF REQUESTED

Claimants requested the following award against the Respondent:

1.	Return of Principal	\$25,000.00
2.	7% Interest	\$
3.	Filing Fees	\$ 500.00
4.	Representative Costs	<u>\$ 2,500.00</u>
		<u>\$28,000.00+</u>

Respondent requested that all of Claimants' claims and allegations of damages be dismissed and that Bruce Pearson reimburse Respondent for all of its reasonable fees and expenses.

OTHER ISSUES CONSIDERED & DECIDED

On September 6, 1994, Respondent filed a Motion to Dismiss the Statement of Claim for Failure to Produce Documents, and to postpone the hearing in this matter. The NASD did not receive a response from the Claimant, and forwarded the motion to the arbitrators. On September 9, 1994, the parties were notified that the panel denied both requests, and that the panel would entertain arguments on the requests prior to the start of the hearing on September 12, 1994.

On September 12, 1994, Respondent reiterated its September 6, 1994, Motion to Dismiss and its Request to Postpone the hearing. After hearing argument from both parties' representatives, and deliberation, the panel denied the Motion to Dismiss and also denied the Request to postpone the hearing.

On September 13, 1994, Respondent raised a Motion to Dismiss at the close of Claimants' case. after hearing argument from the parties, and deliberation, the panel granted the motion.

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. Claimants' claims are, and each of them, denied and dismissed with prejudice.

OTHER COSTS

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

FORUM FEES

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

3 hearing sessions @ \$400.00 per session = \$1,200.00

Pursuant to Section 43(c) of the Code, the NASD shall retain the nonrefundable filing fee in the amount of \$100.00, and shall retain the hearing session deposit in the amount of \$400.00 previously paid to the NASD by the Claimants.

Additional Forum Fees in the amount of \$400.00 are assessed against the Claimants

Additional Forum Fees in the amount of \$400.00 are assessed against the Respondent.

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

CONCURRING ARBITRATORS

Dated:

Name:

September 16, 1994

Roland Santoni
Roland Santoni
Presiding Chair
Public Arbitrator

September 15, 1994

Richard N. Berkshire
Richard N. Berkshire
Public Arbitrator

September 15, 1994

Bart A. Chavez
Bart A. Chavez
Industry Arbitrator

Date of Service by the NASD: 9-23-94