

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the matter of the Arbitration Between

Name of Claimant(s)

Stan Millan

NASD Arbitration
No. 93-02568

Name of Respondent(s)

Richardson Greenshields of Canada Limited
Rod Docker

REPRESENTATION

For Claimant: Stephen F. Boutin, Esq., Boutin - Gibson,
Sacramento, California and Samuel Kornhauser, Esq., San Francisco,
California

For Respondents: Harry A. Olivar, Jr., Esq., Sullivan & Cromwell,
Los Angeles, California

CASE INFORMATION

Statement of Claim filed: August 31, 1993

Claimant's Submission Agreements signed: June 24, 1993 and
November 10, 1993

Joint Statement of Answer filed by Respondents: February 9, 1994

Respondents' Submission Agreements signed as follows:

Richardson Greenshields of Canada Limited: February 9, 1994
Rod Docker: March 11, 1994

HEARING INFORMATION

Pre-Hearing Conference Date(s)/Session(s):

August 15, 1994 (one session)
November 22, 1994 (one session)
December 6, 1994 (one session)

Hearing Date(s)/Session(s):

September 21, 1994 (two sessions)
September 22, 1994 (two sessions)
September 23, 1994 (two sessions)
October 4, 1994 (two sessions)
November 3, 1994 (two sessions)
December 7, 1994 (two sessions)
December 8, 1994 (two sessions)
December 9, 1994 (two sessions)

Hearing Location:

San Francisco, California

CASE SUMMARY

Claimant alleged unsuitability with respect to his Midway Airlines, Inc. investment. Claimant further alleged improper solicitation by Respondents and alleged that Respondents were negligent by not providing Claimant with any financial statements or financial reports on Midway Airlines, Inc. despite numerous requests by Claimant.

Respondents denied Claimants' allegations of wrongdoing and alleged that Claimant is a sophisticated investor who opened a Richardson Greenshields margin account on November 30, 1989 with specific investment objectives in mind, including the purchase of Midway Airlines stock. Respondents alleged that contrary to the assertions in his Statement of Claim, Mr. Millan's investments in Midway Airlines were not the result of any solicitation on the part of Richardson Greenshields or his broker, Rod Docker; all of these investments were made at Mr. Millan's suggestion, and often despite Mr. Docker's attempts to dissuade Mr. Millan from buying further Midway Airlines stock. Respondents further alleged that ignoring Mr. Docker's warnings, Mr. Millan persisted in his investment strategy, suggesting by himself that he average down the cost of his purchases as more stock was added to his accounts. Respondents further alleged that contrary to the assertions in Claimant's Statement of Claim, Richardson Greenshields and Mr. Docker

forwarded all requested financial information regarding Midway Airlines to Mr. Millan and that Mr. Docker often sent Mr. Millan unsolicited information regarding Midway Airlines to keep Claimant informed about his investments. Respondents further alleged that they acted properly and responsibly in all aspects of their relationship with Claimant.

RELIEF REQUESTED

Claimant requested damages in the amount of \$454,000.00.

Respondents requested dismissal of Claimant's claims with prejudice in all respects, and requested that Respondents be awarded their costs of defense and such other and further relief as the arbitration panel deems just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

On December 6, 1994, the panel heard and considered the written and oral positions of counsel relative to Claimant's Motion to Dismiss for lack of subject matter jurisdiction. The panel denied Claimant's Motion.

The parties have agreed that the Award in this matter may be executed in either 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 National Association of Securities Dealers, Inc. (NASD).

AWARD

After considering the pleadings, the testimony, the evidence presented at the hearing, including the positions of the parties relative to Respondents' motion for summary dismissal, and post-hearing submissions, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's Motion for Reconsideration of the Motion to Dismiss for lack of subject matter jurisdiction is denied.
2. The panel finds in favor of Respondents on the merits of

the dispute. All claims by Claimant are dismissed in their entirety.

3. The panel finds that it is unnecessary to rule on the statute of limitations defense.

4. The parties shall each bear their respective costs including attorney's fees.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following forum fees are assessed: The NASD shall retain the \$750.00 hearing session deposit previously deposited by the Claimant. Forum fees are assessed against: Claimant, Stan Millan in the amount of \$12,150.00, calculated as follows: Three pre-hearing sessions times \$300.00/session plus sixteen hearing sessions times \$750.00/session minus the \$750.00 retained by the NASD.

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

ARBITRATORS

<u>Name</u>	<u>Public / Industry</u>
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Nancy Roberts Lonsdale, Esq.

Public Arbitrator

Gloria J. Edmonson

Public Arbitrator

Robin Lynn Berry

Industry Arbitrator

Concurring Arbitrators' Signatures


Nancy Roberts Lonsdale, Esq.

Gloria J. Edmonson

Robin Lynn Berry

Date of Decision: 5 Jan 1995

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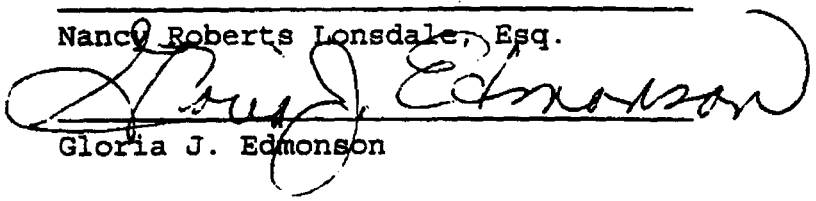
Public Arbitrator

Robin Lynn Berry

Industry Arbitrator

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Gloria J. Edmonson

Robin Lynn Berry

Date of Decision: 1/5/95

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