

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

James Robert Graham

93-03681

Name of Respondent

Quick and Reilly, Inc.

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CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on September 20, 1993, Claimant James Robert Graham, who appeared Pro Se, alleged that Respondent Quick & Reilly, Inc. violated Rule 405 by not knowing its customer, and that its Registered Representative offered investment advice which was entirely unsuitable to the needs of the Claimant, and that Respondent Quick & Reilly, Inc. never sent the first prospectus and only mailed one when he specifically requested it at a later date. The Claimant further alleged that the Registered Representative talked him out of a particular stock and into an in-house mutual fund (Alliance Short Term Multi Market Trust), that this representative misstated and omitted facts that were important to Claimant's investment decision, and that he was given unsuitable advice when it was suggested that he put his money into one investment.

Respondent Quick & Reilly, Inc., through its in-house counsel, Nicholas Chohey, maintained that it is a discount stockbroker and, as such, does not offer investment advice, nor do they solicit trades, and further, that they provide execution services to customers who make their own investment decisions. The Respondent further maintained that the Claimant, by signing the account application, stated he understood that Quick & Reilly, Inc. did not offer investment advice, tax advice, or legal advice regarding the suitability or profitability of a security or investment. Respondent Quick & Reilly, Inc. contended that the statement on the account application signed by the Claimant also states if he needed investment advice he would seek it elsewhere and not hold it liable. The Respondent further contended that its Registered Representative fully explained the investment but did not suggest that the Claimant purchase it, and that, therefore, it should not be held liable in this case.

**RELIEF REQUESTED**

Claimant James Robert Graham requested \$3,200.40 in actual damages.

Respondent Quick & Reilly, Inc. requested that the claims of the Claimant be dismissed.

**AWARD**

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Jeffrey Bauer, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on September 13, 1993 and by the Respondent on December 3, 1993.

And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The claims of the Claimant James Robert Graham against Respondent Quick & Reilly, Inc. are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. The \$50.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc. Respondent Quick & Reilly, Inc. is liable and shall pay \$50.00 to the Claimant as reimbursement of the filing fee.

**AFFIRMATION**

I, JEFFREY BAUER, ESQ., do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.

  
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Signature of Arbitrator

DATE OF DECISION: April 27, 1994