

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

PUBLIC

Mario and Jacqueline LoBasso

93-04751

Name of Respondent(s)

D.H. Blair & Company, Inc.
Thomas Gallo

REPRESENTATION

For Claimants: Brian A. Carlis, Esq. of the law firm of Stark & Stark, Princeton, NJ.

For Respondent: D.H. Blair & Co., Inc. ("Blair"): Justin Y. K. Chu, Esq. of D.H. Blair & Co., Inc. of New York, NY.

Thomas Gallo ("Gallo"): Mark J. Astarita of the law firm of Gusrae, Kaplan & Bruno, New York, NY.

CASE INFORMATION

Statement of Claim filed: November 15, 1993

Claimants' Submission AgreementTM signed on: November 5, 1993

Respondent D. H. Blair & Co., Inc.'s Submission Agreement signed on: January 31, 1994.

Statement of Answer filed by Respondent Thomas Gallo on: January 31, 1994.
Respondent Thomas Gallo's Submission Agreement signed on: July 22, 1994.

HEARING INFORMATION

Hearing Dates/Sessions:	July 21, 1994	2 sessions
	July 22, 1994	2 sessions
	August 4, 1994	2 sessions

Hearing Location: NASD offices located in New York, NY.

CASE SUMMARY

Claimants alleged that they are completely unsophisticated investors who depended solely upon Gallo for investment advice to their detriment and Claimants lost virtually their entire life savings pursuant to the unsuitable and completely misrepresented investment strategy employed by Respondent Gallo. Claimants further alleged that Respondents recommended a haphazard, aggressive trading strategy, purchasing stocks in highly speculative companies commonly referred to as "penny stocks" and this was totally unsuitable for Claimants. Claimants further alleged Respondents took advantage of Claimants' unfamiliarity with stock market investing in order to maximize their commissions and Respondents engaged in misrepresentation and fraud. Claimants further alleged that Respondents were trying to push the investments in which they made a market and/or participated in the underwriting group as such market making activities result in "handsome" commissions for Respondents. Claimants further alleged supervisory controls were clearly lacking in respect of Claimants' accounts.

Respondent Gallo maintained the Claimants' investments were made, at all times, in accordance with Claimants' desires and investment objectives; the Claimants, well aware of the risks of their investments, bought and sold securities and now, after the fact, by claiming ignorance, seek to hold Mr. Gallo responsible for their market losses, for which Mr. Gallo is simply not responsible. Respondent Gallo further maintained Claimants' claims are in part barred by the statute of limitations, the doctrines of laches, estoppel and waiver, for having failed to raise their concerns earlier when Mr. Gallo could have acted on those concerns and by the fact that the Claimants, by their action and inaction, ratified the transactions.

Respondent Blair maintained that the claim is nothing more than an attempt to hold Blair as the guarantor of their investments and Claimants willingly took on and assumed the risks of their investments. Respondent Blair further maintained Claimants purchased the securities at their own instance, held on to them at their own instance and sold them at their own instance. Respondent Blair further maintained Claimants' claims are barred by the doctrine of laches because Claimants ratified the transactions and because Claimants failed to mitigate their damages.

RELIEF REQUESTED

Claimants requested damages of \$73,470.24 plus pre-judgment interest at the New Jersey legal rate plus punitive damages, attorneys' fees and costs of arbitration.

Respondent Gallo requested that the claim be denied in all respects and that an award be entered awarding Respondent Gallo his costs, including reasonable attorneys' fees incurred in defending the claim.

Respondent Blair requested (i) the dismissal of the Statement of Claim; (ii) an award to Blair for the costs and disbursements of defending the claims; and (iii) an award to Blair of such other and further relief, including attorneys' fees as the arbitrators may deem just and proper.

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. The Respondent D.H. Blair and Co., Inc. be and hereby is liable and shall pay to the Claimant's the sum of \$7,000.00.
2. The Respondent Thomas Gallo be and hereby is liable and shall pay to the Claimants the sum of \$31,000.00.
3. The Respondent D.H. Blair and Company, Inc. be and hereby is liable and shall pay to the Claimants the sum of \$325.00 representing one-half of the claim filing fee and hearing session deposit previously paid by the Claimants to the NASD.
4. The Respondent Thomas Gallo be and hereby is liable and shall pay to the Claimants the sum of \$325.00 representing one-half of the claim filing fee and hearing session deposit previously paid by the Claimants to the NASD.
5. Each party shall bear their respective costs including attorneys' fees.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed.

6 sessions X \$500 = \$3,000 minus hearing session deposit of \$500 = net \$2,500 due.

forum fees Assessed Against:

The Respondent D.H. Blair and Company, Inc. be and hereby is liable and shall pay to the NASD the sum of \$1,250.00 representing forum fees and the Respondent Thomas Gallo be and hereby is liable and shall pay to the NASD the sum of \$1,250.00 representing forum fees.

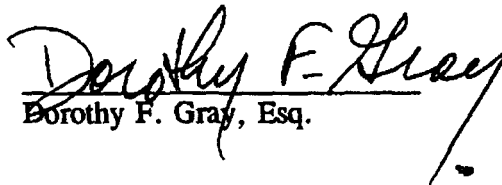
Fees are payable to the National Association of Securities Dealers, Inc.

Concurring Arbitrators' Signatures
Name

Public/Industry

Barry Koch, Esq.

Public Arbitrator



Dorothy F. Gray, Esq.

Public Arbitrator

Robina Fedora Asti

Industry Arbitrator

Date of Decision: October 5, 1994

Award #93-04751

STATE OF:

SS:

COUNTY OF:

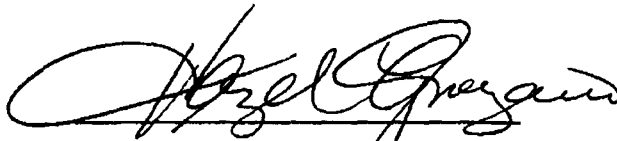
On this day of , 1994, before me personally appeared **Barry Koch, Esq.** know and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.

STATE OF: *NY*

SS:

COUNTY OF: *NY*

On this *21* day of *Sept* , 1994, before me personally appeared **Dorothy F. Gray, Esq.** known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.



HAZEL GUEL-NAZARIO
Notary Public, State of New York
NO. 24-4986738
Qualified in New York County
Commission Expires September 23, 1996

STATE OF:

SS:

COUNTY OF:

On this day of , 1994, before me personally appeared **Robina Fedora Asti** known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that the executed the same.

FORUM FEES

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

Concurring Arbitrators' Signatures
Name

Public/Industry

Barry Koch, Esq.

Public Arbitrator

Dorothy F. Gray, Esq.

Public Arbitrator


Robina Fedora Asti

Industry Arbitrator

Date of Decision: October 5, 1994

Award #93-04751

STATE OF:

SS:

COUNTY OF:

On this day of , 1994, before me personally appeared **Barry Koch, Esq.** know and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.

STATE OF:

SS:

COUNTY OF:

On this day of , 1994, before me personally appeared **Dorothy F. Gray, Esq.** known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.

STATE OF: *New York*

SS:

COUNTY OF: *Orange*

On this *27* day of *August* , 1994, before me personally appeared **Robina Fedora Asti** known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that the executed the same.

Irene K. Coymann

IRENE K. COYMAN
NOTARY PUBLIC, State of New York
No. 4584557
Residence of appointment: Orange County
Commission Expires *March 30, 1995*

June 30, 1995

FORUM FEES

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

Concurring Arbitrators' Signatures
Name

Public/Industry


Barry Koch, Esq.

Public Arbitrator

Dorothy F. Gray, Esq.

Public Arbitrator

Robina Fedora Asti

Industry Arbitrator

Execution
Date of ~~Decision~~ August 4, 1994
Date of Decision: October 5, 1994

Award #93-04751

STATE OF: *new YORK*

COUNTY OF: *MANHATTAN*

SS:

On this *7* day of *OCT*, 1994, before me personally appeared **Barry Koch, Esq.** known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.

William Mitnick

WILLIAM MITNICK
Notary Public, State of New York
No. 30-4503988
Qualified in Nassau County
Certificate filed in Westchester County
Commission Expires December 30, 1996

STATE OF:

SS:

COUNTY OF:

On this day of , 1994, before me personally appeared **Dorothy F. Gray, Esq.** known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.

STATE OF:

SS:

COUNTY OF:

On this day of , 1994, before me personally appeared **Robina Fedora Asti** known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that the executed the same.
