

NASD AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Name of Claimant

Matilde E. Hicks

and

93-05158

Name of Respondent

Dickinson & Co.

REPRESENTATION OF PARTIES

Matilde E. Hicks ("Claimant") was represented by Bruce Pearson, Fargo, North Dakota.

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

CASE INFORMATION

The Statement of Claim was filed on or about December 13, 1993. Response to Motion to Dismiss was filed on or about September 21, 1994. Submission Agreement of Claimant Matilde E. Hicks was signed on November 15, 1993.

Statement of Answer was filed by Respondent Dickinson & Co. on or about February 21, 1994. Motion to Dismiss was filed on or about August 29, 1994. Reply to Response to Motion to Dismiss was filed on or about September 21, 1994. Submission Agreement of Respondent Dickinson & Co. was signed on February 3, 1994 by Thomas M. Smartwood.

HEARING INFORMATION

A telephonic hearing was held on Tuesday, September 27, 1994 for one (1) session.

CASE SUMMARY

Claimant alleged that she relied solely on representations made to her by Respondent that the guarantee set forth in the offering circular for Signal Natural Gas Partners was valid and enforceable and that the very worst investors would get their principal back. Claimant also alleged that Respondent represented that cash flow to the investors would commence within 150 days; that investors would be guaranteed a minimum production of 155,000 cubic feet of natural

gas production per day; and that there would be no dry wells included in the program. Specifically, Claimant alleged that Respondent violated Rule 10b-5 of the Securities Act by failing to perform adequate due diligence, made misleading statements, omitted material facts and breached their fiduciary responsibility to her.

Respondent denied the allegations set forth in the Statement of Claim. Respondents specifically stated that the Claimant is a knowledgeable investor, and that she was informed of all information relevant to her investment in addition to being provided with an offering circular. The following affirmative defenses were also asserted by the Respondent: failure to state a claim upon which relief may be granted; any loss suffered by Claimant as a result of her investment in Signal Natural Gas Partners was caused by market forces beyond Dickinson & Co.'s control and the Claimants own voluntary investment decision; the claim is barred by the applicable statute of limitations; and the Claimant assumed the risk associated with the investment.

RELIEF REQUESTED

Claimant requested an award in the amount of \$28,000 plus interest.

Respondent requested that the claims asserted against it be denied in its entirety and that it be awarded its' costs and attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDED

On Tuesday, September 27, 1994, the parties and the panel participated in a telephonic hearing to present oral arguments on the Respondent's Motion to Dismiss. In its Motion to Dismiss, Respondent stated that the claims asserted in this matter are time barred and should be dismissed.

AWARD

After considering the pleadings, and the arguments presented during the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent's Motion to Dismiss shall be and hereby is granted. The claims asserted in this matter are hereby dismissed in their entirety.
2. Each party shall bear its own costs, expenses and fees incurred in this matter not specifically enumerated herein.

FORUM FEES

Forum fees are calculated at the rate of \$400 per hearing session and \$300 for each prehearing conference, if any. There was one (1) session x \$400 = \$400 in forum fees. Pursuant to §43(b)

a hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less.

Pursuant to §43(c) of the NASD Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. ("NASD") shall retain the non-refundable filing fee in the amount of \$100 and shall retain as forum fees the hearing session deposit in the amount of \$400 previously deposited with the NASD by the Claimant Matilde E. Hicks. Fees are payable to the National Association of Securities Dealers, Inc.

Dated:

/s/ Nancy E. Stead, Esq.
Nancy E. Stead, Esq.
Public Arbitrator, Presiding Chair

September 30, 1994

/s/ Aleron H. Larson, Esq.
Aleron H. Larson, Esq.
Public Arbitrator

September 28, 1994

/s/ Susan M. Huffman
Susan M. Huffman
Industry Arbitrator

September 28, 1994

10/5/94