

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

McDonald & Co. Securities, Inc.

v.

Case No.  
95-00188

Name of Respondent

Robert Field

**REPRESENTATION**

For Claimant, McDonald & Co. Securities, Inc., appeared Henry V. Kerr, Esq. in-house counsel located in Cleveland, Ohio.

For Respondent, Robert Field, appeared Robert E. Giffin, Esq. located in Columbus, Ohio.

**CASE INFORMATION**

Statement of Claim filed: January 13, 1995

Claimant's Submission Agreement signed on: January 12, 1995

Statement of Answer filed by Respondent on: March 8, 1995

Respondent's Submission Agreement signed on: March 8, 1995

**HEARING INFORMATION**

Hearing Date/Sessions: February 7, 1996 - 2 Sessions

Hearing Location: NASD, Inc., 1350 Euclid Ave., Suite 650  
Renaissance Building on Playhouse Square  
Cleveland, OH 44135

**CASE SUMMARY**

Claimant alleged that Respondent was an experienced investor who made frequent losing trades by his own initiation, ignoring the advice and repeated warnings of his broker, Mr. Butts, an employee of Claimant. One such unsolicited bad trade, Claimant maintained, resulted in the loss and corresponding account debit of \$30,914.27, for which Respondent has not reimbursed Claimant.

Claimant alleged that Respondent's failure to pay for the transaction was a breach of his contractual duty to Claimant to pay for his obligations; that Respondent violated Section 10(b) of the 1934 Act by

knowingly omitting the material fact that he would not pay for transactions resulting in a debit account; and for fraud for the same reasons with the additional element that Respondent induced Claimant to rely on his false statements to its detriment.

Respondent alleged that he was not a sophisticated investor, and that Claimant solicited and induced him to make the controverted investment. Respondent additionally claimed that Claimant's employee Mr. Butts continuously advised Respondent, giving his personal opinions on their merits. Respondent alleged that Claimant caused the losses on his account by refusing to follow his directions.

### **RELIEF REQUESTED**

Claimant requested \$30,914.27 plus interest; \$25,000 punitive damages; and attorney's fees.

Respondent requested that the matter be dismissed in its entirety.

### **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. Respondent is liable to Claimant in the amount of **THIRTY THOUSAND NINE HUNDRED FOURTEEN DOLLARS AND TWENTY SEVEN CENTS (\$30,914.27)**.
2. Claimant's request for interest is denied.
3. Respondent is liable for all forum fees.

### **FORUM FEES**

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fee(s) are assessed.


Non-refundable filing fee:	\$ 600.00
Hearing Session (\$500.00 x 2 sessions)	\$1000.00

<b>TOTAL FEES:</b>	<b>\$1600.00</b>
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1. Claimant paid \$1,100.00 and is due a refund of \$1,100.00.
2. Respondent owes \$1,100.00 payable directly to Claimant, and \$500.00 payable to the NASD.

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

ARBITRATORS SIGNATURES

  
Robert C. Devlin, Esq.

Public Chair

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Richard H. Haas, Esq.

Public

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Jay S. Ferrier

Industry

Date of Decision: May 10, 1996

ARBITRATORS SIGNATURES

Public Chair

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Robert C. Devlin, Esq.



Public

Richard H. Haas, Esq. 5-2-96

Industry

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Date of Decision: May 10, 1996

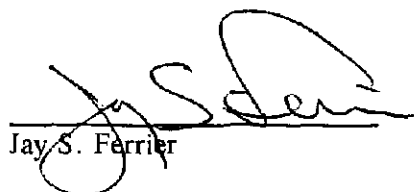
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