

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Harold D. Hann

95-00352

Name of Respondent

U.S. Securities Clearing Corp n/k/a Beckman a
Division of Emmett A. Larkin Company, Inc.
Merle B. Gross
Emmett A. Larkin Company, Inc.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on January 20, 1995, Claimant Harold D. Hann ("Claimant"), who appeared Pro Se, alleged that Respondents U.S. Securities Clearing Corp n/k/a Beckman a Division of Emmett A. Larkin Company, Inc. ("USSC", and Merle B. Gross ("Gross") convinced him to purchase 6000 shares of DeNovo Corporation ("DeNovo"), between September 23, 1993 and November 22, 1993. Claimant further alleged that Gross was aware that DeNovo was unsuitable because Claimant was 70 years old and had more than 30% of his assets in stocks. Claimant contended that he was not informed of the risks associated with this investment nor was he told about Gross's compensation. Claimant further contended that Gross "hyped" the growth of DeNovo by stating that a government loan would assure production growth. Claimant alleged that Respondent Emmett A. Larkin Company, Inc. ("EAL"), should be held liable for USSC's debt to him because EAL is its principal. Claimant further alleged that as a result of the above, he has suffered a loss for which the Respondents should be held liable.

Respondent Emmett A. Larkin Company, Inc., through its representative, Melvin L. Peterson, maintained that it is a clearing broker for USSC. Respondent further maintained that it did not participate in investment decisions or strategies of USSC's clients and were only aware of the investments after they had been completed. Respondent contended that they were provided with only minimum customer information necessary to open the account and confirm transactions. Respondent further contended that it does not perform supervisory functions over the accounts and merely keeps records and does ministerial and custodial functions. Respondent maintained that Gross was never its agent nor was he affiliated with it. Respondent further maintained that as a result of the above, it should not be held liable.

Respondent Merle B. Gross, who appeared Pro Se, maintained that on March 14, 1994 he fully and satisfactorily answered an NASD complaint and that it was determined that "no action is warranted regarding your activities in connection with the Association's investigation of this customer complaint." Respondent further maintained that he has had no contact with the Claimant since early 1994 and has not been associated with USSC since mid-July of 1994. Respondent contended that as a result of the above, he should not be held liable.

Respondent U.S. Securities Clearing Corp n/k/a Beckman a Division of Emmett A. Larkin Company, Inc., failed to file a Statement of Answer to the Statement of Claim.

RELIEF REQUESTED

Claimant Harold D. Hann, requested \$10,000.00 in actual damages.

Respondent Emmett A. Larkin Company, Inc., requested that the claims of the Claimant be dismissed.

Respondent Merle B. Gross, requested that the claims of the Claimant be dismissed.

Respondent U.S. Securities Clearing Corp n/k/a Beckman a Division of Emmett A. Larkin Company, Inc., failed to file a Statement of Answer to the Statement of Claim.

OTHER ISSUES CONSIDERED AND DECIDED...

In accordance with Section 13 of the NASD Code of Arbitration Procedure, the Respondent U.S. Securities Clearing Corp n/k/a Beckman a Division of Emmett A. Larkin Company, was served by regular mail and given an opportunity to respond, which it failed to do. In addition, notice of the indentity of the arbitrator and an overdue answer notice were sent certified mail, and were returned unclaimed.

Pursuant to the By-laws of the NASD, the Arbitrator determined that Respondent U.S. Securities Clearing Corp n/k/a Beckman a Division of Emmett A. Larkin Company, has notice of the claim, and was required to submit to this arbitration proceeding; and is, therefore, bound by the arbitrator's ruling and determination.

AWARD

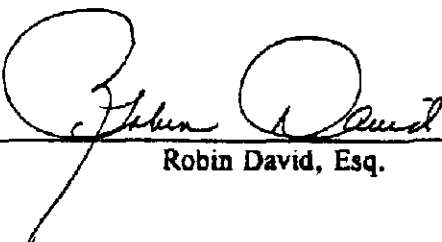
Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Robin David, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Harold D. Hann, on January 17, 1995, and by the Respondent Emmett A. Larkin Company, Inc., on April 13, 1995, by Respondent Merle B. Gross, on March 12, 1995 and not by Respondent U.S. Securities Clearing Corp n/k/a Beckman a Division of Emmett A. Larkin Company, as is required by Sections 12 and 13 of the NASD Code of Arbitration Procedure.

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 Harold D. Hann, against Respondents U.S. Securities Clearing Corp n/k/a Beckman a Division of Emmett A. Larkin Company, Inc., Merle B. Gross, and Emmett A. Larkin Company, Inc. are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Harold D. Hann, shall be retained by the NASD, Inc.

AFFIRMATION

I, **ROBIN DAVID, 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.



Robin David, Esq.

DATE OF DECISION: December 27, 1995