

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant(s)

Don A. Daley

95-00405

Name of Respondent(s)

Joe C. Fassett  
McDonald & Company

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**CASE SUMMARY**

In a claim filed with the National Association of Securities Dealers, Inc. on January 25, 1995, Claimant Don A. Daley, who appeared Pro Se, alleged that Respondent McDonald & Co., Inc., through its registered representative, Respondent Joe C. Fassett exceeded Claimant's limit to buy shares of Mid-Am stock and that when Claimant received the confirmation for the purchase, it stated that the stock "traded with dividends". The Claimant contended he later discovered he would not be receiving his dividends, and therefore he is entitled to recover the loss of dividends which he is entitled to. Claimant Don A. Daley also contended that he has been wronged due to the Respondents' closing of his account, and therefore he is entitled to recover damages.

Respondents McDonald & Co. and Joe C. Fassett, through their representative and in-house counsel, Henry V. Kerr, Esq., maintained that the stock was executed properly at Claimant's limit price, and further that Claimant was not entitled to cash dividends on this purchase and no such representation was ever made to him. The Respondents also maintained that they have the right to reject any client or potential client for any reason, and therefore, the claims against them should be dismissed.

**RELIEF REQUESTED**

Claimant Don A. Daley, requested \$629.00 in actual damages.

Respondent McDonald & Co., Inc. and Joe C. Fassett, requested that the claims of the Claimant be dismissed.

**AWARD**

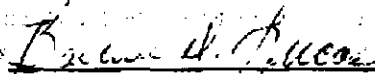
Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Barbara D. Lucas, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on January 23, 1995, by the Respondent Joe C. Fassett on April 7, 1995, and by the Respondent McDonald & Co., Inc. on April 10, 1995.

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 Don A. Daley against Respondents McDonald & Co., Inc. and Joe C. Fassett are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. The \$30.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc.

**AFFIRMATION**

I, **Barbara D. Lucas, 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.



Barbara D. Lucas

DATE OF DECISION: January 23, 1996