

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Mark E. Davis

95-00781

Name of Respondent

Dickinson & Co.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on February 15, 1995, Claimant Mark E. Davis, who appeared Pro Se, alleged that Respondent Dickinson & Co., sold him an investment which was not suitable and did not properly service his account. Claimant further alleged that on July 24, 1992, he contacted George Klepacki ("Klepacki"), a representative of Respondent, to inquire about opening an account. Claimant contended that pursuant to Klepacki's recommendation, he purchased 3,000 shares of ATCI at \$2 7/8. Claimant further contended that Klepacki promised him that his first few trades would be free of commission, but he was charged a commission on all of the trades aside from his ATCI purchase. Claimant alleged that Klepacki never discussed his investment needs and concerns, and subsequently left Dickinson & Co. without informing Claimant. Claimant further alleged that his ATCI shares subsequently declined in value. As a result of the above, Claimant alleged that he has suffered a loss for which Respondent should be held liable.

Respondent Dickinson & Co., through its representative and in-house counsel, Barbara Bennett, Esq., of Des Moines, Iowa, maintained that at the time he opened his account, Claimant indicated that his investment objectives were growth and capital appreciation. Respondent further maintained that during the time Claimant maintained his account with Klepacki, he purchased two securities which were appropriate in light of his goals. Respondent contended that while Claimant maintained his account at Dickinson & Co, he received transaction confirmations and monthly account statements which clearly reflected the value of ATCI. As a result of the above, Respondent maintained that it should not be held liable.

RELIEF REQUESTED

Claimant Mark E. Davis, requested \$8,389.69 in actual damages.

Respondent Dickinson & Co., 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, William L. Hawes, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Mark E. Davis, on May 12, 1995, and by the Respondent Dickinson & Co., on September 11, 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, Mark E. Davis, against the Respondent, Dickinson & Co., 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 Mark E. Davis, shall be retained by the NASD, Inc.

AFFIRMATION

I, **WILLIAM L. HAWES**, 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.

A handwritten signature in cursive script, appearing to read 'W. L. Hawes', is written over a horizontal line.

Signature of Arbitrator

DATE OF DECISION: January 22, 1996