

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

---

In the Matter of the Arbitration Between

Name of Claimant

William E. Hauser

95-01070

Name of Respondent

James F. Motteler

---

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on March 1, 1995, Claimant William E. Hauser ("Claimant"), who appeared Pro Se, alleged that Respondent James F. Motteler ("Respondent"), misrepresented investments by not explaining the risk to him to his detriment. Claimant further alleged that he explained to the Respondent that his investment goals were to increase his cash flow and did not want to risk losing his money. Claimant contended that the Respondent recommended that he invest in three mutual funds the Putnam Health Sciences ("PHS"), Putnam New Opportunities ("PNO") and Putnam Voyager ("PV"), and in Initial Public Offerings ("IPO") which he did. Claimant further contended that the funds began losing value so he sold them pursuant to a new broker's advice to limit his losses and reinvested the proceeds in Putnam High Yield Trust ("PHYT"). Claimant alleged that as a result of the above, he has suffered a loss for which the Respondent should be held liable.

Respondent James F. Motteler, through his representative and in-house counsel, Cynthia A. Doria, at Edward D. Jones & Co., located in St. Louis, MO, maintained that he properly discharged his obligations regarding the investments sold to the Claimant. Respondent further maintained that he made a reasonable inquiry into the Claimant's investment objectives and had reasonable grounds for recommending the disputed investments. Respondent contended that the Claimant had an unusual income stream and was desperate for cash to correct a \$2,200.00 loss per month. Respondent further contended that Claimant desired "cash flow" of 12% from his investments to offset other parts of his budgeted need; Claimant's investment selections met that requirement but at a cost of principal. Respondent maintained that he expressed to the Claimant that taking more than 6-8% out was a very bad idea, but Claimant continued his heavier "returns", without consideration for the reduction of principal. Respondent further maintained that Claimant began moving his funds around within the Putnam funds, and that as a result of the above, he should not be held liable.

**RELIEF REQUESTED**

Claimant William E. Hauser, requested \$8,297.52 in actual damages, plus costs.

Respondent James F. Motteler, requested that the claims of the Claimant be dismissed.

**AWARD**

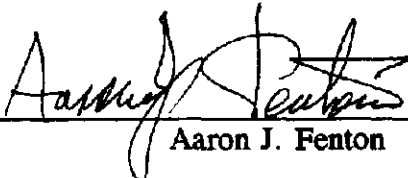
Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Aaron J. Fenton, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant William E. Hauser, on February 3, 1995, and by the Respondent James F. Motteler, on May 15, 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 William E. Hauser, against Respondent James F. Motteler, are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. All other relief requests are denied.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant William E. Hauser, shall be retained by the NASD, Inc. The Respondent James F. Motteler, is liable and shall pay to the Claimant William E. Hauser, \$75.00 as reimbursement of 1/2 of the filing fee.

**AFFIRMATION**

I, AARON J. FENTON, 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.

  
\_\_\_\_\_  
Aaron J. Fenton

DATE OF DECISION: October 10, 1995