

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

William Dawson

95-04609

Names of Respondents

Calton & Associates Inc.  
Terry Duffield

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**REPRESENTATION**

For Claimant, William Dawson ("Dawson"): Jeffrey P. Coleman, Esq. of the law firm of Bonner, Hogan & Coleman, P.A., Clearwater, FL.

For Respondents, Calton & Associates, Inc. ("Calton") and Terry Duffield ("Duffield"): Robert Persante, Esq. of the law firm of Albinson & Persante, P.A., Clearwater, FL.

**CASE INFORMATION**

Statement of Claim filed: September 29, 1995.

Claimant's Submission Agreement signed on: July 7, 1995.

Joint Statement of Answer filed by Respondents on: November 30, 1995.

Respondents' Submission Agreement signed on: November 28, 1995.

**HEARING INFORMATION**

Five hearing sessions were conducted on August 5 and 6, 1996 in Tampa, Florida.

**CASE SUMMARY**

Claimant alleged that he was the victim of deceptions concerning his purchase of \$80,000.00 worth of Limited Partnerships in his \$95,000.00 IRA Account and the deceptions were continued throughout many years of the investor relationship; that he was also placed in speculative gold mining stocks; that although Respondent indicated the Claimant was the architect of the investment plan, Claimant produced a witness who had purchased the same

investments and who testified he had been persuaded to lend the same broker approximately \$30,000.00 and that the broker had defaulted on its repayment; that Claimant's expert established damages in the range of \$120,000.00.

Respondents maintained that at arbitration it was established that the Claimant had selected the limited partnerships, that the limited partnerships were performing substantially to form, and that the Claimant had intentionally ruined any prospect for having a successful portfolio in that he drained more than half of the total amount of his original investment from his IRA account, contrary to his broker's advice. Respondents further maintained that the Claimant was ostensibly unable to prove any damages.

#### **RELIEF REQUESTED**

Claimant requested damages in the sum of approximately \$120,000 plus punitive damages, costs, expenses, disbursements, the filing fee paid to the NASD and such other relief that the arbitration panel deemed just and proper.

Respondents requested that the Statement of Claim be dismissed in its entirety and that the Respondents recover judgement against Claimant for Respondents' costs of suit, attorneys' fees and for such other and further relief as the arbitrators deem just and proper.

#### **OTHER ISSUES CONSIDERED & DECIDED**

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD.

#### **AWARD**

After considering the pleadings, the testimony and the evidence presented at the hearing and post hearing submissions (if any), the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. All claims by the Claimant are hereby dismissed in all respects.
2. Claimant's request for punitive damages is hereby dismissed in all respects.
3. Each party shall bear their respective costs including attorneys' fees.

**FORUM FEES**

Pursuant to Section 43c of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of \$3,750.00 (5 hearing sessions x \$750.00).

1. Claimant is hereby assessed Forum Fees in the amount of \$1,875.00 for which the NASD shall retain the \$750.00 previously deposited in partial satisfaction thereof leaving a balance due to the NASD of \$1,125.00.
2. Respondents are hereby assessed Forum Fees, jointly and severally, in the amount of \$1,875.00.
3. The NASD shall retain the non-refundable filing fee of \$200.00 previously paid by the Claimant to the NASD.
4. The NASD shall retain the non-refundable member surcharge paid by Respondent, Calton.

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

**ARBITRATION PANEL**

Concurring Arbitrators' Signatures

Name

Public/Industry

/s/

\_\_\_\_\_  
Andrew J. Bolnick

Public/Chairman

/s/

\_\_\_\_\_  
Sean Wright

Industry/Panelist

/s/

\_\_\_\_\_  
Walter E. Brittain

Public/Panelist

Date of Decision: September 27, 1996