

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Barbara A. Allen

95-05018

Name of Respondent

Dickinson & Co.

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CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on October 24, 1995 Claimant Barbara A. Allen ("Claimant"), who appeared Pro Se, alleged that she held account #W30-4147911 with Respondent Dickinson & Co. ("Respondent") and that her account representative informed her that she could sell her Trinity Biotech stock at a loss receiving \$580.00. Claimant further alleged Respondent's recommendation was unsuitable given her circumstances as a mother of two receiving medical disability from her job. Claimant contended that Respondent failed to inform her that she would have to pay transaction fees when purchasing or selling securities. Claimant further contended that these fees were unreasonable and maintained that Respondent was a market maker in the securities purchased. Claimant alleged that as a result of the above she has suffered a loss, for which Respondent should be held liable.

Respondent Dickinson & Co. through its representative and in-house counsel, Barbara Bennett, Esq., maintained that the securities purchased for Claimant's account were suitable given her investment objective of growth. Respondent further maintained that Claimant alone controlled her account and could have sold her stocks at any time. Respondent contended that Claimant received written confirmations for each of her transactions which contained commission information, mark-up or down fees and any additional charges. Respondent further contended that it was one of a number of market makers for the stocks purchased and maintained that it is generally advantageous to customers because it can afford them a better price. Respondent further maintained that as a result of the above, it should not be held liable.

**RELIEF REQUESTED**

Claimant Barbara A. Allen, requested \$1,540.00 in actual damages.

Respondent Dickinson & Co., requested that the claims of the Claimant be dismissed.

**OTHER ISSUES CONSIDERED AND DECIDED**

The Arbitrator reviewed and considered all documentation submitted by the Respondent regarding the Motion to Dismiss the action. The Arbitrator denied the Motion.

**AWARD**

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, James B. Eichberg, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Barbara A. Allen, on October 16, 1995 and by the Respondent Dickinson & Co., on November 20, 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:

Claimant Barbara A. Allen, is liable and shall pay to the Respondent Dickinson & Co., \$286.00 in actual damages.

2. The parties shall bear their respective costs.
3. The \$50.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc. Respondent Dickinson & Co., is liable and shall pay to Claimant Barbara A. Allen, \$ 50.00 as reimbursement of the filing fee.

**AFFIRMATION**

I, JAMES B. EICHBERG, 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.

  
James B. Eichberg

DATE OF DECISION: March 14, 1996