

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Daniel H. Mosley

96-00874

Name of Respondents

Dickinson & Co.
Andrew J. Galy

CASE SUMMARY

In a case filed with the National Association of Securities Dealers, Inc. on February 22, 1996, claimant Daniel Mosley, who appeared Pro Se, alleged that respondents Dickinson & Co. ("Dickinson") and Andrew J. Galy ("Galy"), deceived and mislead him about the suitability of his investments over the past four years. Claimant further alleged that in September 1991, he went to Galy's office at F.N. Wolf & Co., in order to purchase \$3,000.00 worth of stock in the company he worked for. Claimant also alleged that he told Galy that he was a novice investor, who had never been to see a stockbroker before, and was looking for a safe investment. Claimant asserted that after mentioning other money that he had in his savings account, Galy suggested that instead of buying his company's stock, he should put his savings account money into a retirement portfolio. Claimant further asserted that Galy assured him that this retirement portfolio would be safe. Claimant also asserted that because this was the first time seeing a stockbroker, he did what ever Galy recommended, and turned over the \$3,000.00, plus his money from the savings account. Claimant contended that after receiving prospectus booklets on the companies that Galy was pouring into his account, he noticed a statement about risk on the front page of the booklets. Claimant further contended that when he asked Galy about the risk statements, Galy explained to him that the statements were merely a bunch of "legal mumbo jumbo", and to let him do all the worrying. Claimant also contended that in January of 1993, he was concerned that his two major primary holdings Great American Recreation ("GRAR") and Site Base Media ("SBM") were not doing so well, and Galy again told him to let him to the worrying, and that it was even more imperative than ever that he follow his instruction to the letter, otherwise, he could lose it all. Claimant alleged that Galy solicited him to purchase stocks by telling him that he had inside information on SBM, the stocks he was recommending. Claimant further alleged that in November 1993, he was fed up watching his savings evaporate and ordered Galy to sell it all. Claimant also alleged that Galy told him he would not let him commit financial suicide, and went on to tell him inside information about the two company GRAR and SBM. Claimant asserted that after this conversation, Galy convinced him to hold on. Claimant alleged that in September of 1994, Dickinson's name appeared on the statement letterhead in stead of F.N Wolf's. Claimant also alleged that Galy told him that nothing had changed except the name.

Respondent Dickinson & Co. ("Dickinson"), through its representative and in-house counsel Barbara Bennett, maintained that the claimant transferred his account over to Dickinson when Galy became employed at the firm on July 8, 1994. Respondent further maintained that claimant only made two purchases of GRAR while his account was at Dickinson. Respondent also maintained that at no time did claimant notify any one at Dickinson that he was dissatisfied with the way his account was handled. Respondent contended that there was no reason for anyone at Dickinson to believe that the purchases made were unsuitable given the makeup of the claimant's account when it was transferred to the firm. Respondent further contended that claimant already owned the shares of the company he continued to purchase at Dickinson. Respondent also contended that the claimant's losses, if any, were caused or contributed to the acts of the parties over whom they did not have control, and for whom they are not responsible for.

Respondent Andrew J. Galy ("Galy"), who appeared Pro Se, maintained that claimant's personal records show that only two unsolicited GRAR buys were made through Dickinson. Respondent further maintained that claimant's own records show that the two purchases made through Dickinson were his third and fourth purchases of the same company. Respondent also maintained that these events occurred almost three years after claimant's original investment. Respondent contended that over a three year period, claimant saw his share price and value decline regularly and unabated over this time period. Respondent Galy further contended that the first purchase began on May 8, 1992, wherein claimant received a red herring and a final prospectus outlining in detail the high risk of this investment. Respondent Galy also contended that on May 12, 1993, claimant sold the face value of one of his stocks, confirming that claimant made all decisions on what was bought and sold in his account. Respondent Galy maintained that claimant's account was set up as a cash account, not a discretionary account, wherein he alone exercised control over what transaction took place in it. Respondent Galy further maintained that claimant knew of the risk, and recognized the speculative nature of this investment. Respondent also maintained that claimant never represented to him any dissatisfaction with the way the account was being handled.

RELIEF REQUESTED

Claimant Daniel Mosley requested \$10,000, in actual damages.

Respondent Dickinson & Co., requested that the claim of the claimant be dismissed in its entirety.

Respondent Andrew J. Galy, requested the claim of the claimant be dismissed in its entirety.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Edward J. Gay III, was selected to review the matter in controversy between that parties set forth in submissions to Arbitration signed by the claimant Daniel Mosley on February 23, 1996, and by respondent Dickinson & Co. on April 22, 1996 and not by respondent Andrew J. Galy as required by Sections 12 and 13 of the NASD, Inc. Code of Arbitration Procedure.

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. Respondents Dickinson & Co. and Andrew J. Galy are jointly and severally liable and shall pay claimant Daniel Mosley the sum of \$2,055.30, in actual damages.
2. Respondents Dickinson & Co. and Andrew J. Galy are jointly and severally liable and shall pay claimant Daniel Mosley an interest rate of 8% per annum from the date of this award until payment.
3. Respondent Andrew J. Galy is liable and shall pay claimant Daniel Mosley the sum of \$7,944.70, in actual damages.
4. Respondent Andrew J. Galy is liable and shall pay claimant Daniel Mosley an interest rate of 8% per annum from the date of this award until payment.
5. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the claimant Daniel Mosley shall be retained by the NASD, Inc. Respondents Dickinson & Co. and Andrew J. Galy are jointly and severally liable and shall pay the sum of \$150.00 as reimbursement of he filing fee.

AFFIRMATION

I, **EDWARD J. GAY**, 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.



Edward J. Gay, III, Esq.

Date of Decision: August 27, 1996