

**AWARD**

NASD REGULATION, INC., OFFICE OF DISPUTE RESOLUTION

In the matter of the Arbitration Between

Name of Claimant(s)

Mark Christiansen

v.

Arbitration No.  
96-04599

Name of Respondent(s)

Dickinson & Co.  
Donald Harwell  
Rial Barnett

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**REPRESENTATION**

For Claimant: C. Keith Greer, Esq.  
San Diego, California

For Respondents Dickinson & Co. And Rial Barnett:  
- Barbara E. Bennett, Esq.  
Dickinson & Co.  
Des Moines, Iowa

Respondent Harwell represented himself.

**CASE INFORMATION**

Statement of Claim filed: October 14, 1996

Claimant's Submission Agreement signed: October 14, 1996

Joint Answer of Dickinson & Co. And Rial Barnett filed February 3, 1997

Respondents' Submission Agreements signed:  
Dickinson & Co.: February 3, 1997  
Rial Barnett: February 25, 1997

Respondent Harwell did not file an answer or a submission agreement but appeared at hearing.

### **HEARING INFORMATION**

A pre-hearing telephone conference lasting one session was held on September 25, 1997.

The evidentiary hearing was held in San Diego, California on February 19, 1998, and lasted 2 sessions.

### **CASE SUMMARY**

Claimant alleged unauthorized trading, unsuitable trading, breach of contract, breach of fiduciary duty, negligence and failure to supervise arising out of his investment in Qualcom, Newbridge Networks, Acclaim Entertainment, Medi-Mail and other stocks. Claimant alleged Respondent Harwell recommended and engaged in margin trading, day-trading and short sales based on a theory of charting stock price incremental fluctuations, which resulted in large losses over a short period of time.

Respondents Dickinson & Co. and Barnett denied the allegations of wrongdoing and denied liability for any of Claimant's losses. Respondents asserted that Claimant was fully informed of the risks of purchasing securities on margin prior to making his first margin transaction, and that Claimant executed the margin agreement which clearly set forth the risks of investing on margin. Respondent asserted that Claimant received written confirmations for all transactions as well as monthly statements clearly showing account value, margin interest charges and all transactions. Respondents stated that Claimant was an active, informed investor who understood market risk.

### **RELIEF REQUESTED**

Claimant requested damages of approximately \$30,000.00, plus punitive damages and costs of arbitration.

Respondents requested dismissal of all claims and expungement of this claim from the CRD records of Mr. Barnett and Mr. Harwell.

### **OTHER ISSUES CONSIDERED AND DECIDED**

The parties have agreed to receive conformed copies of the Award while the originals remain on file with NASDR, Inc.

### **AWARD**

The undersigned arbitrators, having considered the pleadings, the testimony and the evidence presented at the hearing, and the post-hearing submissions, have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents are jointly and severally liable for and shall pay to Claimant the sum of \$6,200.00 in satisfaction of all claims.
2. The request to expunge the CRD records of Respondents is denied.
3. The parties shall bear their respective costs, including attorney's fees.

### **FORUM FEES**

Pursuant to Section 10332 of the Code of Arbitration Procedure, the NASDR shall retain Claimant's \$200.00 non-refundable filing fee. Forum fees are assessed as follows:

Total fees:

One pre-hearing telephone conference @ \$300/session	\$ 300.00
Two hearing sessions @ \$750/session	\$ 1,500.00
Total:	<u>\$ 1,800.00</u>
Claimant's one-half share	\$ 900.00
Credit for deposit	\$ 750.00
Balance Due:	<u>\$ 150.00</u>
Respondent's joint and several one-half share	<u>\$ 900.00</u>
Respondent Dickinson & Co's outstanding member surcharge	<u>\$ 350.00</u>

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

Concurring Arbitrators Signatures:

Date signed:

William L. Merkin

4/13/98

William L. Merkin, Esq.

Presiding Chairperson

Public Arbitrator

Franklin Geerdes, Esq.

Public Arbitrator

Robert M. Schneider

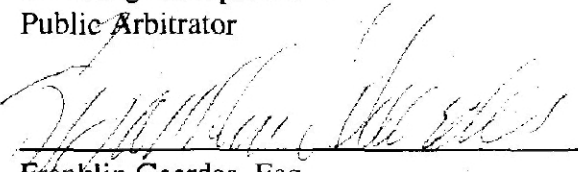
Securities Industry Arbitrator

Date served: 4/17/1998

Concurring Arbitrators Signatures:

Date signed:

\_\_\_\_\_  
William L. Merkin, Esq.  
Presiding Chairperson  
Public Arbitrator

  
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Franklin Geerdes, Esq.  
Public Arbitrator

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Robert M. Schneider  
Securities Industry Arbitrator

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*4-13-1998*

Date served: 4/17/1998

Concurring Arbitrators Signatures:

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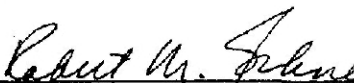
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William L. Merkin, Esq.  
Presiding Chairperson  
Public Arbitrator

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Franklin Geerdes, Esq.  
Public Arbitrator

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Robert M. Schneider  
Securities Industry Arbitrator

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*April 13, 1998*

Date served: 4/17/1998