

NOV 17 RECD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between :
: Wayne R. and Merrily J. Starkey : AWARD
: Claimants : #88-02667
vs. :
: Shearson Lehman Hutton, Inc. :
Michael Zackom : Respondents
:-----

Case Summary

Claimants, Wayne R. and Merrily J. Starkey (hereinafter "Claimants"), alleged that on October 21, 1987, Respondent Michael Zackom (hereinafter "Zackom") refused to execute Claimants' order to purchase 3000 shares of Newmont Mining Co. Claimants also alleged that Zackom initially withheld from Claimants a confirmation slip reflecting a sale of 3000 shares of Newmont Mining Co. which occurred on October 16, 1987.

Respondents categorically denied Claimants' allegations. Respondents maintained that Claimants placed an order on October 16, 1987 to sell their 40 Newmont Mining October 47 put options and that this sell order was properly executed by Claimants' registered representative and that Claimants' registered representative had telephoned Claimants on October 16, 1987 to confirm this order.

Relief Requested

Claimants request damages in the amount of \$42,750.00. Respondents request that Claimants' request for damages be denied in all respects and that costs of this proceeding be assessed against the Claimant.

Award

On November 13, 1989, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimants Wayne R. and Merrily J. Starkey on August 17, 1988 and by Respondent Shearson Lehman Hutton, Inc. on October 28, 1988. Respondent Michael Zackom did not execute a Submission Agreement, however, he did submit an Answer, attended the hearing and was represented by counsel. Pursuant to Section 43 of the Code of Arbitration Procedure, the arbitration panel exercised jurisdiction over Respondent Zackom. The initial claim was filed on August 19, 1988. The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has determined in full and final resolution of the issues submitted for determination as follows:

1. The Claimants' claim is denied in all respects.
2. The parties shall each bear their respective costs including attorney fees.
3. Pursuant to Section 43 of the Code of Arbitration Procedure, forum fees for the November 13, 1989 double hearing session are equally assessed against the Claimants and the Respondents. Claimants are assessed forum fees in the amount of \$400.00, however, the Claimants are entitled to apply their filing fee of \$400.00 to offset this amount, such that no monies are due from the Claimants as forum fees. Respondents Shearson Lehman Hutton, Inc. and Zackom are jointly and severally assessed forum fees in the amount of \$400.00. Forum fees shall be made payable to the National Association of Securities Dealers, Inc.

CONCURRING ARBITRATORS

/s/
Joseph L. Farrell, Jr.

/s/
Donald L. Bruton

/s/
Gerald D. Linette