

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

J. VAUGHN WILSON AND
EVELYNE WILSON

Claimants

and

KIDDER, PEABODY AND COMPANY, INC.
AND SUSAN TOMLINSON

Respondents

CASE NO. 88-02693

CASE SUMMARY

Estate of J. Vaughn Wilson and Evelyne Wilson ("Claimants") alleged as follows:

1. Susan Tomlinson, a registered representative of Kidder, Peabody & Co., Inc. (Tomlinson and Kidder are collectively referred to herein as "Respondents")

a. purchased unsuitable securities for the Claimants' account;

b. engaged in unauthorized transactions;

c. churned the Claimants' account; and

d. made misrepresentations and omissions of material facts in connection with these accounts.

2. The above acts and omissions of the Respondents constituted a) violations of 1) Section 10(b) of the Securities and Exchange Act of 1934 and Rule 10b-5 promulgated thereunder, 2) Section 12(b) of the Securities Act of 1933, 3) Section 27.01 of the Texas Business and Commerce Code, and 4) Section 33 of the Texas Securities Act. and b) common law fraud.

Respondents denied each and every claim of the Claimant and further alleged that the Claimants' claims are barred by:

1. The doctrines of estoppel, waiver, and laches; and
2. The fact that the Claimant J. Vaughn Wilson was an experienced investor, who approved all transactions, and failed to object to the level or types of trading, even though he had full knowledge of the nature of the transaction.

RELIEF REQUESTED

Claimants requested damages in the amount of \$169,401.39. Respondents requested that all the claims of the Claimants be dismissed.

AWARD

On September 15, 1988 the NASD received the Claimants' Statement of Claim. On January 24, 25, and 26, 1990 during a hearing lasting seven sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on August 11, 1988 by Claimants S. Vaughn Wilson and Evelyn Wilson, on October 10, 1988 by George C. Cabell on behalf of Respondent Kidder Peabody and Company.

The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has decided in full and final resolution of the issues submitted for determination as follows:

1. All claims asserted by the Claimants against the Respondents are hereby dismissed;
2. The parties shall bear their own costs including attorneys' fees.
3. Pursuant to Section 43(b) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain as forum fees, the \$1,000.00 filing fee previously deposited with the NASD by the Claimants and the Claimants shall pay an additional \$4,250.00 as forum fees to the NASD through its staff counsel.

By the Panel

Dated: <u>1-26-90</u>	/S/ <u>Joe B. Abbey, Esq.</u>
Dated: <u>1-26-90</u>	/S/ <u>James E. Loomis</u>
Dated: <u>1-26-90</u>	/S/ <u>G. Dale McKissick</u>

Date Served: 2-5-90