

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Stanley C. & Barbara M. Ingraham, Claimants
Trustees

vs.

KMS Financial Services, Inc., Respondents
James E. Hill and James R. Hill

AWARD

CASE NO. 88-02886

SUMMARY OF ISSUES

This case was filed with the National Association of Securities Dealers, Inc. ("NASD") on September 13, 1988. Claimants alleged the following: failure to execute sale and purchase order for mutual funds.

Respondent KMS Financial Services, Inc. ("KMS") denied the failure to properly execute the trade according to its terms and alleged the following affirmative defenses: contributory negligence and erroneous calculation of alleged damages. KMS asserted a cross-claim against Respondents James E. Hill and James R. Hill for contribution and indemnification for any award assessed against KMS.

Respondents James R. Hill and James E. Hill denied each and every substantive allegation of Claimants and Cross-Claimants.

DAMAGES AND RELIEF REQUESTED

Claimant requested: 1) compensatory damages of \$35,000.00; 2) interest at 12% per annum from October 7, 1987 to the date of award; and 3) attorneys' fees and costs.

DAMAGES AND RELIEF AWARDED

On May 30, 1990, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimants on August 3, 1988. Respondents did not file a submission agreement but did file Answers and appeared at the arbitration, and are subject to the jurisdiction of the NASD in accordance with Sections 1 and 8 of the NASD Code of Arbitration Procedure. The hearing was conducted in Seattle, Washington and lasted three sessions. 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. Respondent KMS Financial Services, Inc., only, is liable for and shall pay to Claimants the sum of \$17,280.71, which includes an award of interest.

2. Each and every claim against Respondent James R. Hill and James E. Hill is dismissed.

3. The cross-claims of KMS Financial Services, Inc. against Cross-Respondents James R. Hill and James E. Hill are dismissed.

4. The parties shall each bear their respective costs including attorneys' fees.

5. In accordance with Section 43 of the NASD Code of Arbitration Procedure, the NASD shall retain the \$400.00 filing fee previously deposited by the Claimants as an assessment of forum fees by the arbitrators, but is to be paid by KMS Financial Services, Inc. to Claimants. In addition, Respondent KMS Financial Services, Inc. is also assessed forum fees of \$1,200.00, payable to the National Association of Securities Dealers, Inc.

\$400 *ch*

PRESIDING ARBITRATORS

DATE SERVED: 07/19/90

John A. Bender, Jr., Esq.

C B Wells

Christopher B. Wells

John A. Roberts