

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

BOBBIE E. THOMAS, SR. AND ROZELLA THOMAS

Claimant(s)

and

WADDELL & REED, INC., PETER COLLINS
AND JERRY RICHARDS

Respondent(s)

Case No. 89-02457

CASE SUMMARY

In a Statement of Claim filed with the NASD on or about September 5, 1989, Claimants Bobbie and Rozella Thomas ("the Thomas'") alleged that Respondents Waddell & Reed, Inc. ("Waddell & Reed"), Peter Collins ("Collins") and Jerry Richards ("Richards") violated the antifraud provisions of the state and federal securities laws in connection with the sale of limited partnership interests to the Thomas'. Additional allegations set forth in the statement of claim included breach of fiduciary duty, violations of the federal RICO statute and the allegation that these limited partnerships were unsuitable.

The joint statement of answer filed with the NASD on or about December 4, 1989 by Waddell & Reed, Collins and Richards asserted that the Thomas' were suitable for the investments made in their account. Furthermore, the answer alleged that the claims were time barred by applicable statutes of limitation.

RELIEF REQUESTED

The Thomas' requested compensatory damages of \$36,000, interest, forum fees, costs, reasonable attorney's fees and treble damages pursuant to RICO.

Respondents Waddell & Reed, Collins and Richards requested dismissal of the claims.

PROCEDURAL SUMMARY

During a pre-hearing conference with the Chairman of the arbitration panel, Respondents' Counsel argued that the claims were time barred on the basis of applicable statutes of limitation and that the RICO claim be dismissed. Upon consideration of the respective counsel's positions, the Chair determined that the motion filed by the Respondents would be taken under advisement.

AWARD

On Wednesday, June 20, 1990, in Chicago, Illinois, during a hearing lasting one (1) session, the undersigned arbitrators heard the controversy between the

parties as set forth in submissions to arbitration signed on August 18, 1989 by Claimants Bobbie and Rozella Thomas, on November 30, 1989 by Rodney O. McWhinney on behalf of Respondent Waddell & Reed, Inc., on November 9, 1989 by Respondent Peter J. Collins and on November 8, 1989 by Respondent Jerald R. Richards. Additionally, as part of the chair's order following the pre-hearing conference, Rozella Thomas was directed to execute a submission agreement on behalf of the estate of Bobbie Thomas. Mr. Thomas was ill when the claim was filed and was deceased at the time of hearing. Accordingly, Rozella Thomas executed a submission agreement on June 20, 1990 on behalf of the estate of Bobbie Thomas.

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. Respondents' motion to dismiss the claims on the basis of the statute of limitations as a time bar to recovery is denied;
2. Respondents' motion to dismiss the RICO claim which was taken under advisement is denied;
3. Claimant's claim shall be and is hereby denied in its entirety on the merits;
4. The parties shall all bear their respective costs and expenses including any attorney's fees incurred in this matter;
5. Pursuant to Section 43(b) and (c) of the NASD Code, Waddell & Reed is assessed and shall pay to the NASD the sum of \$750.00 as costs for the pre-hearing conference held at their request on June 15, 1990; and
6. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall refund the \$750.00 filing fee previously deposited with the NASD by the Claimant. Waddell & Reed is assessed and shall pay to the NASD the sum of \$750.00 as forum fees for the hearing on June 20, 1990.

By the Panel

Dated: June 20, 1990

/S/ Alan J. Fischer

Dated: June 20, 1990

/S/ Marc B. Horin

Dated: June 20, 1990

/S/ Thomas F. Mahoney

Date Served: June 25, 1990