

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Cliff and JoAnn McKie,
Henry & Dora Peck

Claimants

and

89-02805 consolidated with
89-02806

Alfred (Earl) Milner, First Eagle, Inc.,
Brennan Ross Securities, Inc., Tri-Bradley
Investments, Inc., State Street Securities, Inc.

Respondents

REPRESENTATION OF PARTIES

Claimants were represented by Richard James Goff, Esq., Englewood, Colorado.

Alfred (Earl) Milner was represented by Michael Ehrlich, Esq., Englewood, Colorado.

CASE SUMMARY

In Statements of Claim filed with the National Association of Securities Dealers, Inc. ("NASD") on or about October 11, 1989 and in an amendment to the Statements of Claim filed with the NASD on or about January 25, 1991, Cliff and JoAnn McKie ("McKies") and Henry & Dora Peck ("Pecks") (collectively as "Claimants") alleged that Alfred (Earl) Milner made material misrepresentations or was negligent in making statements to induce them to purchase shares in K. B. Marketing. First Eagle, Inc., Tri-Bradley Investments, Inc., Brennan Ross Securities, Inc. and State Street Securities, Inc. were named as Respondents under the doctrines of vicarious liability and respondeat superior.

In a document filed with the NASD on or about February 26, 1991, Alfred (Earl) Milner stated that he was no longer associated with a member of the NASD and requested dismissal of the proceedings against him pursuant to Section 16 of the NASD Code of Arbitration Procedure.

In its answer filed with the NASD on or about January 29, 1990, First Eagle, Inc. stated that Claimants never opened an account at First Eagle, Inc.

RELIEF REQUESTED

Claimants Cliff and JoAnn McKie requested an award in the amount of \$10,000.00 and interest. Claimants Henry and Dora Peck requested an award in the amount of \$5,000.00 and interest.

Respondent First Eagle, Inc. requested that it be dismissed from this proceeding.

Respondent Alfred (Earl) Milner requested that this proceeding be dismissed.

OTHER ISSUES

Respondent Tri-Bradley Investments, Inc. was dismissed without prejudice as a result of its filing for bankruptcy.

PROCEDURAL MATTERS

On Wednesday, July 24, 1991 in Denver, Colorado during a hearing lasting a total of two (2) sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on September 30, 1989 by Claimants Cliff and JoAnn McKie, Henry and Dora Peck by Robert Valerius on behalf of Respondent First Eagle, Inc.

Respondent Alfred (Earl) Milner did not file with the NASD a properly executed submission to arbitration but is required to submit to arbitration pursuant to Section 12 of the NASD Code of Arbitration Procedure and having answered the claim, appeared and testified at the hearing is bound by the determination of the arbitration panel on all issues submitted.

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with the NASD.

AWARD

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 Claimants in this matter shall be and hereby are dismissed and denied in their entirety;
2. Each party shall bear its own costs, expenses and attorneys fees incurred in this matter; and

3. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall refund the hearing session deposit in the amount of \$200.00 previously deposited with the NASD by the Claimants.

Dated:

7-24-91

/s/ Samuel E. Wing, Esq.
Samuel E. Wing, Esq.
Presiding Chair
Public Arbitrator