

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

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In the Matter of the Arbitration Between

Lillian D. Lee

Claimant * Case #90-00416

vs.

Osborne, Stern & Co., Inc.
and
Douglas Osborne

Respondent *

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CASE SUMMARY

In an claim filed on February 8, 1990, Claimant, Lillian D. Lee ("Claimant") alleged that Respondents, Osborne, Stern & Co., Inc. and Douglas Osborne ("Respondents") made material misrepresentations to Claimant in order to induce Claimant to buy 10,000 shares of common stock in Consolidated Energy Systems, Inc. ("CESI"). Claimant alleged that when she placed an order to sell CESI the Respondents refused to execute her sell order. Claimant further alleged that Respondents agent was not properly registered to sell CESI to the Claimant and that CESI was an unregistered stock. Claimant alleged that Respondent Osborne, Stern had agreed to rescind the sale of CESI but that Respondent Osborne Stern failed to rescind the transaction as promised.

In an answer filed by the Respondents on May 16, 1990, the Respondents maintained that the sale of CESI to the Claimant was a legitimate transaction and that the trade should not be cancelled merely because the Claimant changed her mind. Respondent Osborne, Stern & Co., Inc. also maintained that it is a properly licensed broker-dealer in the State of Kentucky.

RELIEF REQUESTED

Claimant, requested damages in the amount of \$20,030.00 plus six percent interest compounded daily from the period that Respondents had Claimant's money until the date the award is paid. Claimant also requested that Respondents reimburse her for her expenses incurred in defending this action.

Respondents requested that Claimant's claim be denied in its entirety.

AWARD

On November 6, 1990, the undersigned arbitrator heard the controversy between the parties as set forth in submissions to arbitration signed by the Claimant, on February 3, 1990 and by the Respondents on April 30, 1990. The hearing was held in Louisville, Kentucky and consisted of 1 session. The arbitrator, 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. That Claimant's claim against Respondent Douglas Osborne is denied in its entirety.
2. Claimant's claim for rescission of purchase made in CESI for the total 10,000 shares of CESI is sustained; that Respondent Osborne-Stern is directed to return to Claimant her initial investment of \$20,030.00 and Claimant is order to surrender the 10,000 shares of CESI in her account.
3. The parties shall each bear their respective costs, including attorney's fees;
4. Pursuant to Section 43 of the Code of Arbitration, the National Association of Securities Dealers, Inc. shall retain the \$400.00 filing fee previously deposited by the Claimant and the Respondent is directed to reimburse the Claimant \$400.00 as cost.

ARBITRATORS CONCURRING

/s/
James P. McCrocklin

Dated: November 13, 1990