

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

.....
In the Matter of the Arbitration Between/Among:)
)
VIRGIL W. and ANN G. STOKES,)
)
)
Claimant(s))
vs.)
)
)
WALL STREET CLEARING CO. and THE FIRST)
NATIONAL BANK OF TUSCALOOSA,)
)
)
Respondent(s))
)
)
.....)

AMENDED
AWARD
90-000824

The undersigned Arbitrator files this amendment to his Award, dated November 9, 1990, to correct certain technical errors which appear in the original text. These corrections have been added to the original wording and the Award is republished in the following form.

CASE SUMMARY

Claimants, Virgil W. Stokes and Ann G. Stokes, alleged the Respondents, Wall Street Clearing Co. and The First National Bank of Tuscaloosa, breached their legal obligations to Claimants by failing to complete a buy order to purchase 400 shares of Texaco, Inc. at \$25.00 per share. This buy order was issued in April, 1987 and remained outstanding on the books of Respondents through mid-November, 1987. Claimants maintained Texaco, Inc. traded at or below \$25.00 per share on several occasions during this time period and that the buy order should have been filled. This was the only issue raised in Claimants' "Statement of Case" and at the arbitration hearing.

The Statement of Case did not seek an award of special tort damages or any form of punitive relief. However, Claimants did establish a basic trading claim which was filed in a timely manner. This claim was thereafter amended by letter, dated June 2, 1990, in which punitive damages were requested.

In response to the Statement of Case, The First National Bank of Tuskaloosa (now AmSouth Bank) asserted that it had properly received and transmitted the buy order to Wall Street Clearing Co., as required by law and its arrangement with the Claimants. Wall Street Clearing Co. asserted the absence of eligible trades at or below \$25.00 per share as its primary defense.

A substantial number of documents and direct testimony were received into evidence at the arbitration hearing. After a lengthy review of the case materials, this Arbitrator finds that the evidence is insufficient to prove Claimants' case.

RELIEF REQUESTED

Claimants seek a mandatory sale of 400 shares of Texaco, Inc. at \$25.00 per share, Interest of \$4,200.00, \$500.00 in costs and punitive damages.

MOTIONS

During the arbitration hearing Respondents' moved for the dismissal of Claimants' case. This Motion was and is denied.

AWARD

On September 20, 1990, the undersigned Arbitrator heard the

controversy between the parties, as set forth in the submissions to arbitration signed by the Claimants, dated March 12, 1990, and by Respondents, dated May 4, 1990 and April 25, 1990. The hearing was held in Atlanta, Georgia and consisted of two sessions. Having considered the pleadings, the testimony presented at the hearing, and the other evidence presented at the hearing, this Arbitrator has determined the following, in full and final resolution of the issues submitted for adjudication:

1. The undersigned Arbitrator finds for the Respondents on all issues raised in this proceedings; and,

2. Each party shall also bear his respective costs, including attorney's fees; and,

3. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$100.00 filing fee previously deposited by the Claimants; and,

4. Claimants are further assessed forum fees in the amount of \$300.00, which shall be payable to the National Association of Securities Dealers, Inc., through its staff counsel/administrator, in accordance with Section 43 of the Code of Arbitration Procedure.

DATED: February 6, 1991


WILLIAM EDMUND BURKE, ARBITRATOR.