

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Dale R. & Kathryn A. Munson
Claimants

90-01292

and

Dean Witter Reynolds, Inc.
Ed Millitti
Shaun J. Wildt

Respondents

REPRESENTATION

For Claimants: Pro Se.

For Respondents: Paul DuBow, Esq. of Dean Witter Reynolds, Inc., San Francisco, CA.

CASE INFORMATION

Statement of Claim filed: May 7, 1990

Claimant's Submission Agreement signed on: May 18, 1990

Statement of Answer filed by Respondents, Dean Witter Reynolds, Inc. and Ed Millitti on: July 26, 1990. No Statement of Answer filed by Respondent Shaun Wildt.

Respondents, Dean Witter Reynolds, Inc. and Ed Millitti's Submission Agreements signed on: July 23, 1990. No Submission Agreement signed by Shaun Wildt as required by Section 12 of the Uniform Code of Arbitration Procedure.

HEARING INFORMATION

Hearing Date/Session: The undersigned arbitrator decided the controversy on the papers on or about June 18, 1991.

Hearing Location: The undersigned arbitrator decided the controversy on the papers in Omaha, Nebraska.

CASE SUMMARY

Claimants, Dale R. and Kathryn A. Munson ("Munsons") alleged that they purchased one share of Berkshire Hathaway stock on October 13, 1989 from

Respondent Dean Witter Reynolds, Inc. ("Dean Witter") and that an error on the part of Dean Witter in their price confirmation led to a \$600.00 price contradiction. More specifically, when the Munsons initially gave their account representative at Dean Witter the permission to purchase the one share of stock, the price of the stock had not yet been confirmed by Dean Witter. When the price of the stock was later confirmed, the price of the stock was determined at \$8675.00. However, a day or so later, the account executive from Dean Witter called the Munsons telling them that the actual purchase price of the stock had been confirmed at \$8075.00. Munsons alleged that a month later, a memo was sent to them stating that the purchase price of the stock was actually \$8675.00. The Munsons alleged that they should be charged \$8075.00 for the price of the one share of stock.

Respondents Dean Witter Reynolds, Inc. ("Dean Witter") and Ed Millitti assert in their Statement of Answer that the Munsons should pay \$8675.00, the actual market price for the one share of stock. Dean Witter and Ed Millitti alleged that after the Munsons placed their order on October 13, 1989, a confirmation of the purchase of the stock was sent to the Munsons which showed the price of the stock at \$8675.00. On or about October 17, 1989, an order clerk, when asked by Dean Witter's account executive to verify the price for Mr. Munson's purchase, read stock prices for October 16 instead of October 13, thought he discovered an error in the pricing and accordingly sent a price change confirmation to the Munsons showing a price of \$8075.00. Shortly thereafter, it was determined that the price change was incorrect and a third confirmation showing the original and correct price of \$8675.00 was sent to the Munsons.

RELIEF REQUESTED

Claimants Dale and Kathryn Munson requested: Damages of \$697; \$600 for the difference in the price confirmation error and \$97 for the commission charge.

Respondents Dean Witter Reynolds, Inc. and Ed Millitti requested that the Statement of Claim be dismissed in its entirety.

Respondent Shaun Wildt did not answer the claim.

AWARD

After considering the pleadings filed by the parties in this matter without a hearing pursuant to Section 10 of the NASD Code of Arbitration Procedure, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:


1. Claimants Dale R. and Kathryn A. Munson's claim shall be and is hereby dismissed in its entirety.
2. The parties shall each bear their own costs and expenses other than forum fees enumerated below.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed:

1. The National Association of Securities Dealers, Inc. shall retain the \$15 claim filing fee provided by the Claimants-Munson.

Fees are payable to the National Association of Securities Dealers, Inc.


Stephen E. Gehring
Public Arbitrator

Date of Decision:

July 10, 1991