

N.A.S.D. AWARD  
NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Raymond A. & Rose M. Rieke

90-01781

Name of Respondent(s)

Citicorp Financial Services, Inc.

Heard before:

Name

Public/Industry

Robert D. Rose, Esq.

Public/Chairman

REFERENCES

Claimants Raymond A. & Rose M. Rieke were represented by Mr. Raymond A. Rieke, In Pro Se.

Respondents were represented by Richard P. Murphy, Esq.

CASE SUMMARY

This matter was initiated by a Statement of Claim filed with the National Association of Securities Dealers, Inc. ("NASD") on June 22, 1990.

Claimants, Raymond A. and Rose M. Rieke (Rieke) allege that Rieke placed an order, on Friday, October 13, 1989, to sell 50 shares of UAL and 100 shares of AMR "at the market". Sales had been halted on that day therefore the order was never executed. Rieke alleges that Respondent, Citicorp Financial Services, Inc., (Citicorp) failed to sell the shares on the next day of trading and did not inform him that the order had expired after the close of the market on October 13. Rieke subsequently sold the shares at a lower price.

Respondent, Citicorp, asserts that Rieke knew or should have known that the market order had expired on the 13th and that Citicorp could not replace the order on its own since Citicorp did not have the authority to act on Rieke's behalf. Citicorp also answers that Rieke could have sold the shares on the 17th in that he knew on the 16th that the trade was never consummated. Had he done so his alleged damages would have been significantly reduced. Citicorp contends that Rieke is a knowledgeable and sophisticated investor and should have been aware that the order had expired unfilled.

RELIEF REQUESTED

Claimants, Raymond A. Rieke and Rose M. Rieke, seek to recover the sum of \$4,206.25, which represents the difference between the price of the shares on October 13, and the price at which they were subsequently sold.

Respondent, Citicorp Financial Services, Inc., seek dismissal of the suit in its entirety.

### AWARD

On June 12, 1991, in San Diego, California during a hearing lasting one session, the undersigned arbitrator heard the controversy between the parties as set forth in submissions to arbitration signed by Claimants Raymond A Rieke and Rose M. Rieke on July 18, 1990 and signed by Stephen Storen on behalf of Respondent, Citicorp Financial Services, Inc., on March 15, 1991

After considering the pleadings, the testimony, and the evidence presented at the hearing, the arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Each and every claim of Claimants, Raymond A. Rieke and Rose M. Rieke against Respondent, Citicorp Financial Services, Inc. is dismissed.
2. The parties shall each bear their respective costs including attorneys' fees.

### FORUM FEES

In accordance with Section 44c of the NASD Code of Arbitration Procedure, the NASD shall retain the \$150.00 filing fee previously deposited by the Claimants as an assessment of forum fees by the arbitrator.

### OTHER ISSUES

On May 17, 1991, a pre-hearing conference was held with all parties present telephonically. Said pre-hearing lasted one session.

Arbitrators' Signature



Robert D. Rose, Esq.

Date of Decision:

June 21, 1991