

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between )

Name of Claimant(s) )

Elvis L. and Virginia L. Wilkinson )

Case No. 90-02300

Name of Respondent(s) )

Smith Barney Harris Upham & Co., Inc. )  
Mark R. Sorensen )

Heard before the members of the Arbitration Panel:

David A. Townsend, Esq.

Public

Sam Giunta

Public

Kathleen Baggett Church

Industry

REPRESENTATION

Claimants, Elvis L. and Virginia L. Wilkinson ("the Wilkinsons"), were pro se.

Respondents, Mark R. Sorensen ("Sorensen") and Smith Barney Harris Upham & Co., Inc. ("Smith Barney"), were represented by David Levy, Esq. of Smith Barney.

CASE SUMMARY

This matter was initiated by a Statement of Claim filed with the National Association of Securities Dealers, Inc. ("NASD") on August 21, 1990. Claimants alleged that Respondents were liable for executing unauthorized purchases of options; failing to execute a sell order in a timely manner and, failing to inform Claimants that a certain stock was involved in "junk bond deals".

Respondents filed a Statement of Answer with the NASD on January 4, 1991. Respondents denied all allegations of wrongdoing and alleged that all trades were authorized by Claimants; Respondents were unable to close out the sell order before trading stopped and, in order to avoid losing the original debit, Sorensen recommended, and Claimants agreed to, exercise the option; and, Claimants received confirmations and did not complain about unauthorized trades until after the contract expired worthless.

RELIEF REQUESTED

Claimants requested damages in the amount of \$26,471.00.

Respondents requested dismissal of the claim.

### AWARD

On September 24, 1991, in Tampa, Florida, during a hearing lasting one (1) session, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimants, the Wilkinsons on August 11, 1990 and signed on January 4, 1991 by David Levy, Esq. on behalf of Respondent, Smith Barney, and not signed by Sorensen as required by Sections 12 and 25 of the Code.

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

1. The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award be entered. In either case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD.
2. Respondents, Smith Barney and Sorensen, are found not liable and, therefore, all claims against them are hereby dismissed.
3. The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding including attorney's fees.

### FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of \$400.00 (one session x \$400.00 per session). Claimants are hereby assessed \$400.00 for which the NASD shall retain the \$400.00 previously deposited in full satisfaction thereof.

### OTHER ISSUES

None.

Concurring Arbitrators' Signatures

/S/  
David A. Townsend, Esq.

/S/  
Sam Giunta

/S/  
Kathleen Baggett Church

Date of Decision: October 25, 1991