

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between)	
Carvel Dillard)	
)	
Claimant)	
)	AWARD
vs.)	
)	NASD #90-02397
Merrill Lynch, Pierce,)	
Fenner & Smith, Inc.)	CEOE No. 90-NM-9
)	
Respondent)	

SUMMARY OF ISSUES

Claimant alleged fraud and breach of contract arising out of his trading in options of the Superior Oil Company in December 1983, and the failure of Respondent to deliver shares on an agreed date.

Respondent denied Claimant's allegations and asserted that Claimant had deposited approximately \$212,000.00 worth of bad checks in his accounts to pay for the options, and this necessitated the liquidation of the security prior to the agreed delivery date.

DAMAGES AND RELIEF REQUESTED

Claimant requested damages of approximately \$250,000.00 plus interest, attorney's fees and punitive damages.

Respondent requested dismissal of all claims.

DAMAGES AND RELIEF AWARDED

This claim was filed with the NASD on August 28, 1990. On January 4, 1991, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant on March 3, 1990, and by Respondent on April 19, 1990. The hearing was conducted in Portland, Oregon and lasted two (2) sessions. The arbitration panel, 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. All claims brought by Claimant are dismissed.
2. The parties shall each bear their respective costs including attorneys' fees.

3. In accordance with Section 43 of the NASD Code of Arbitration Procedure, the NASD shall retain the \$1,000.00 filing fee previously deposited by the Claimant. Respondent shall reimburse Claimant for the \$1,000.00 filing fee, and shall also pay to the NASD forum fees in the amount of \$2,000.00.

OTHER ISSUES

This claim was originally filed in the United States District Court for the Southern District of Texas, Houston Division, Civil Action No. H-85-4135, and was ordered to arbitration by Order of the court entered February 1, 1990. The claim was then filed with the CBOE, and subsequently referred to the NASD for hearing.

ARBITRATORS CONCURRING

DATE SERVED: 1/28/91

Justine Fischer

Douglas Newell
Douglas Newell

Wendy L. Harris