

NATIONAL ASSOCIATION OF SECURITIES, INC.

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In the Matter of the Arbitration Between :  
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Donald and Ilene B. Raphael :  
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Claimants :  
:   
vs. :  
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Stifel, Nicolaus & Co., Inc. :  
Gale Wickell :  
Michael Schlueter :  
:   
Respondents :  
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CASE #90-02417  
AWARD

CASE SUMMARY

Donald and Ilene B. Raphael, in a claim filed with the National Association of Securities Dealers, Inc. on August 31, 1990, alleged that Respondents are responsible for the terms of an agreement with R. Rowland & Co., Inc. the provisions of which remain unsatisfied.

Respondent Stifel, Nicolaus & Co., Inc. set forth a Motion to Dismiss based on allegations that Stifel, Nicolaus & Co., Inc. are not a successor to R. Rowland as specifically defined in Missouri state law. They state that they are not a party to the subject agreement and cannot be held liable for trades and a subsequent agreement that were made at another brokerage firm.

Respondent Gale Wickell maintains that he is not a signatory to the agreement in question, did not know of the existence of the agreement and states that the terms of the agreement do not require any performance from him personally or professionally.

Respondent Michael J. Schlueter maintains that commission concessions provided by him to the Raphael family more than offset the provisions of the note value. He states that Claimant misled him to believe that his commission concessions were to be offset against the note.

RELIEF REQUESTED

Claimants request Five Thousand Dollars and No Cents (\$5,000.00) in damages plus interest and costs.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Albert G. Webber, III, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on August 20, 1990 and by the Respondent Stifel, Nicolaus & Co., Inc. on December 31, 1990, Gale Wickell on December 10, 1990 and Michael Schlueter on December 10, 1990.

And, that the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. That the Motion To Dismiss asserted by Respondent Stifel, Nicolaus & Co., Inc., be, and hereby is, granted.
2. That Claimant's Motion to Preclude the Answers from the Respondents, be, and hereby is, denied.
3. That the Claim of Donald and Ilene B. Raphael be, and hereby is, dismissed in its entirety against Respondents Gale Wickell and Michael Schlueter.
4. The parties shall bear their respective costs including attorney's fees.
5. The One Hundred Dollar and No Cents (\$100.00) filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc.

AFFIRMATION

I, ALBERT G. WEBBER, III, ESQ., do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.



Signature of Arbitrator

DATED:

