

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Mildred Nicholson & Moyna Hudgen

90-02622

Name of Respondent(s)

Steve H. Sharpe
Paulson Investment Company Inc.

CASE SUMMARY

In a Statement of Claim filed with the NASD on September 17, 1990, Claimants Mildred Nicholson and Moyna Hudgen alleged that Respondents Steve H. Sharpe and Paulson Investment Company, Inc. misrepresented the tax consequences of the sale of common stock at a profit and the rollover of the funds received into a different common stock. As alleged in the complaint, Respondent Sharpe informed Claimants there would be no income tax on the profit because of the rollover and the Claimant agreed to the trade in November of 1989 upon this representation. In March of 1990, Claimants were informed that the trade profit was taxable and Claimant was forced to pay penalties to the I.R.S.

In a Statement of Answer filed with the NASD on November 30, 1990, Respondent Steve H. Sharpe denied the material allegations of the Statement of Claim, stating that he advised Claimants to check with a tax professional regarding the tax implications of the sale and did not offer any tax advice.

In a Statement of Answer filed with the NASD of November 20, 1990, Respondent Paulson Investment Co., Inc. relied on the answer filed by Respondent Sharpe and denied the allegations of the Statement of Claim.

RELIEF REQUESTED

Claimants Mildred Nicholson and Moyna Hudgen requested entry of an award against Respondents Steve H. Sharpe and Paulson Investment Company, Inc. in the amount of \$2,755.96 and rescission of the two stock transactions and the return of the original stock.

Respondents Steve H. Sharpe and Paulson Investment Company, Inc. requested that the Statement of Claim be dismissed and denied in its entirety. In addition, Respondents deny that rescission is an appropriate remedy given the allegations in this case.

OTHER ISSUES

At hearing, Claimants amended their request for entry of an award in the amount \$5,291.96.

AWARD

On February 14, 1991 in Denver, Colorado during a hearing lasting one session, the undersigned arbitrator heard the controversy between the parties as set forth in submission to arbitration signed on September 12, 1990 by Claimants Mildred Nicholson and Moyna N. Hudgens, on November 19, 1990 by Richard A. Boege on behalf of Respondent Paulson Investment Company, inc. and on November 21, 1990 by Respondent Steve H. Sharpe.

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten signal award be entered. In either case, the parties have agreed to received conformed copies of the award while the originals remain on file with the NASD.

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

1. The Statement of Claim is dismissed and denied in its entirety.
2. Each party shall bear their own costs, including attorney's fees, except for those specifically enumerated herein.
3. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$50.00 filing fee previously deposited with the NASD by the Claimants Mildred Nicholson and Moyna Hudgens. The hearing session deposit of \$100.00 previously deposited by the Claimants shall be refunded by the NASD. Respondent Steve H. Sharpe is liable for and shall pay to NASD forum fees in the amount of \$100.00

By the Arbitrator

Dated: 2-22-91

/s/ John A. Eckstein
Presiding Chair

AWARD

The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has decided in full and final resolution of the issues submitted for determination as follows:

1. Shearson is liable for and shall pay to claimants, jointly, the sum of Ten Thousand Dollars and No cents (10,000);
2. Claimants' claim for punitive damages is and shall be hereby denied and dismissed in its entirety;
3. Interest is the rate of 8% per annum is awarded on the above stated sum from and inclusive of November 29, 1985 to and inclusive of June 27, 1991;
4. The claim against Wilson is dismissed without prejudice pending the outcome of his bankruptcy proceeding;
5. The parties shall each bear their own costs, expenses and attorney's fees; and

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$120.00 claim filing fee and refund the hearing session deposit in the amount of \$400.00 previously deposited with the NASD by the Claimants. Shearson is assessed and shall pay to the NASD forum fees in the amount of \$800.00.

Panel Members Concurring

Dated:

August 6, 1991

Patrick A. Burrow
Patrick A. Burrow, Esq.
Presiding Chair
Public Arbitrator

John L. Porter
Public Arbitrator

Frederick J. Menz
Industry Arbitrator

Date Served by the NASD: _____