

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Janet Beck Saigh Grantor & TRS

90-02624

Name of Respondent(s)

Stifel, Nicolaus & Company, Incorporated
R. Rowland & Co.
Armin T. Stude

Representation

Claimant Janet Beck Saigh appeared Pro se. Respondent Stifel, Nicolaus & Co., Inc. was represented by Forrest M. Smith, Esq., Vice President and Legal Counsel, Stifel, Nicolaus & Co., Inc., St. Louis, Missouri. Respondent R. Rowland & Co. was represented by H. Clay Billingsley, Esq. of Klutho, Cody, Killo, Flynn, Billingsley & Trane, P.C., St. Louis, Missouri. Respondent Armin T. Stude was represented by David R. Human, Esq. of Zierchar & Hocker, P.C., Clayton, Missouri.

CASE SUMMARY

In a Statement of Claim filed with the National Association of Securities Dealers, Inc. ("NASD") on or about September 17, 1990, Claimant Janet Beck Saigh ("Saigh") alleged that she was sold unsuitable investments in the form of common stock in Genentech and I.C.N. Pharmaceutical. Saigh also alleged that Respondent Armin Stude ("Stude") made misrepresentations concerning these stocks. Saigh alleged that Stude told her that she would "make a goodly profit" on Genentech because "Genentech will announce a vaccine for AIDS." Saigh was also allegedly told by Stude that I.C.N. Pharmaceutical was "good chance for a takeover" by a large Pharmaceutical Company.

In a Statement of Answer filed with the NASD on or about January 2, 1991, Respondent Stifel, Nicolaus & Co., Inc. ("Stifel, Nicolaus") alleged that Saigh's claims should be dismissed. Stifel, Nicolaus alleged that Saigh never made any purchases of securities through Stifel, Nicolaus and that the transactions complained of occurred when Stude was not employed by Stifel, Nicolaus. Stifel, Nicolaus further asserted that the claims asserted against it by Saigh should be dismissed by virtue of the purchase agreement which it entered into in November of 1988 wherein only certain liabilities of R. Rowland & Co. were assumed by Stifel, Nicolaus.

In a Statement of Answer filed with the NASD on or about January 23, 1991, Respondent R. Rowland & Co. ("R. Rowland") alleged that the claim should be dismissed and that the claims were time barred by the applicable provisions of the Missouri Securities Laws.

In a Statement of Answer filed with the NASD on or about December 17, 1990, Respondent Armin Stude ("Stude") objected to the jurisdiction of the NASD to decide any of the claims asserted against Stude by Saigh.

RELIEF REQUESTED

Saigh requested damages of \$22,119.46 plus interest. Stifel, Nicolaus, R. Rowland and Stude requested dismissal of the claims asserted by Saigh.

OTHER ISSUES

Two preliminary motions were presented to the panel at the hearing on May 29, 1991. The panel first entertained a motion on behalf of Armin Stude to dismiss him as a party respondent on the basis that the NASD lacked jurisdiction over him for purposes of deciding any claims asserted against Stude by Claimant Janet Saigh. After considering the argument of the parties, the panel interpreted Section 12 of the NASD Code in accordance with its authority set forth in Section 35 of the NASD Code and denied Stude's motion. Accordingly, Stude was found to be subject to the jurisdiction of the panel and it considered all of Saigh's claims against Stude. The panel then considered a motion to dismiss Stifel, Nicolaus & Co., Inc. as a party from the instant proceeding on the basis that Stifel, Nicolaus could not be held liable for Saigh's claims by the terms of the agreement to purchase only certain liabilities of R. Rowland & Co. This motion was taken under advisement by the panel.

AWARD

On Wednesday, May 29, 1991, in St. Louis, Missouri, during a hearing lasting two (2) sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on November 14, 1990 by Claimant Janet Beck Saigh, on December 28, 1990 by Forrest M. Smith, Vice President on behalf of Respondent Stifel, Nicolaus & Co., Inc. and on January 16, 1991 by Raymond E. Rowland, Jr., President, on behalf of Respondent R. Rowland & Co.

Respondent Armin T. Stude did not file with the NASD a properly executed submission to arbitration but is required to submit to arbitration pursuant to Section 12 of the NASD Code of Arbitration Procedure and having answered the claim, appeared and testified at the hearing is bound by the determination of the arbitration panel on all issues submitted.

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 original remains on file with the NASD.

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. The claims asserted against Stifel, Nicolaus, R. Rowland and Stude by Saigh shall be and are hereby denied and dismissed in their entirety;

2. The parties shall each bear their own costs, expenses and attorney's fees incurred in this matter;

3. Since the panel dismissed the claims on their merits, the issue of Stifel Nicolaus' motion to dismiss was determined to be moot; and

3. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the hearing session deposit in the amount of \$400.00 previously deposited with the NASD by Claimant Janet Beck Saigh. Respondents Stifel, Nicolaus & Co., Inc., R. Rowland & Co. and Armin Stude are jointly and severally assessed and shall pay to the NASD additional forum fees in the amount of \$400.00.

Panel Members Concurring

Dated: May 29, 1991

Robert M. Livingstone
Presiding Chair
Public Arbitrator

Dated: May 29, 1991

Warren E. Van Noorden
Public Arbitrator

Dated: May 29, 1991

Thomas C. Boersig, Jr.
Industry Arbitrator

Dated Served by the NASD: May 31, 1991