

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Arthur and Lenore Olson; Estate of Donald
Bennett; Madeline Dantuma;
Ara Louise Olson; and E. Taliaferro French
and Dorothy French

Consolidated Case No.s 91-00635;
91-00637; 91-00653;
91-00663; 91-02068

Name of Respondents

Mutual Service Corporation
John M. Culbertson

REPRESENTATION OF PARTIES

For Claimants: Steve Samson, Esq.

For Respondent Mutual Service Corporation: Robert Jonker, Esq.
of Warner, Norcross & Judd, Grand Rapids, Michigan.

Respondent John M. Culbertson failed to appear at the hearing.

CASE INFORMATION

Statement of Claim filed by Arthur and Lenore Olson: February
26, 1991.

Claimants' Submission Agreement signed on: February 15, 1991.

Statement of Answer filed by Respondent, Mutual Service
Corporation on: May 6, 1991.

Respondent Mutual Service Corporation's Submission Agreement
signed on: March 15, 1991.

Statement of Answer filed by Respondent, John M. Culbertson on:
June 19, 1991.

Respondent John M. Culbertson has failed to file a Submission to arbitration.

Amended Statement of Claim filed by Arthur and Lenore Olson: October 8, 1991.

Respondent Mutual Service Corporation's Answer to the Amended Statement of Claim filed: November 13, 1991.

Statement of Claim filed by the Estate of Donald Bennett: February 26, 1991.

Claimant's Submission Agreement signed: February 15, 1991.

Statement of Answer filed by Respondent, Mutual Service Corporation on: May 29, 1991.

Respondent Mutual Service Corporation's Submission Agreement signed: April 18, 1991.

Respondent John M. Culbertson has failed to file a Submission to Arbitration, and has also failed to file an Answer to the Statement of Claim.

Amended Statement of Claim filed: October 8, 1991.

Respondent Mutual Service Corporation's Answer to the Amended Statement of Claim filed: November 13, 1991.

Statement of Claim filed by Madeline Dantuma: February 27, 1991.

Claimant's Submission Agreement signed on: February 15, 1991.

Statement of Answer filed by Respondent Mutual Service Corporation: May 6, 1991.

Respondent Mutual Service Corporation's Submission Agreement signed: March 18, 1991.

Statement of Answer filed by Respondent, John M. Culbertson: June 19, 1991.

Respondent John M. Culbertson has failed to file a Submission to Arbitration.

Amended Statement of Claim filed: October 8, 1991.

Answer to the Amended Statement of Claim filed by Respondent, Mutual Service Corporation: November 13, 1991.

Statement of Claim filed by Ara Louise Olson: on or about February 27, 1991.

Claimant's Submission Agreement signed: February 15, 1991.

Statement of Answer filed by Respondent, Mutual Service Corporation: April 22, 1991.

Respondent Mutual Service Corporation's Submission Agreement signed: March 18, 1991.

Statement of Answer filed by Respondent, John M. Culbertson: June 19, 1991.

Respondent John M. Culbertson has failed to file a Submission to Arbitration.

Amended Statement of Claim filed: October 10, 1991.

Answer to Amended Statement of Claim filed by Respondent, Mutual Service Corporation: November 13, 1991.

Statement of Claim filed by E. Taliaferro and Dorothy French: July 1, 1991.

Claimants' Submission Agreement signed: June 26, 1991.

Statement of Answer filed by Respondent, Mutual Service Corporation: September 4, 1991.

Respondent Mutual Service Corporation's Submission Agreement signed: April 18, 1991.

Respondent John M. Culbertson has failed to Answer this Statement of Claim, and has also failed to file a Submission to Arbitration.

Amended Statement of Claim filed: October 8, 1991.

Response to Amended Statement of Claim filed by Respondent, Mutual Service Corporation: November 13, 1991.

HEARING INFORMATION

Hearing dates: April 2, 1992. 2 sessions.
April 3, 1992. 2 sessions.

Hearing Location: Chicago, Illinois.

CASE SUMMARY

Claimants, Arthur and Lenore Olson, ("Claimants") alleged: misrepresentations and omissions; conversion; failure to supervise; violation of Section 10 (b) of the Exchange Act and Rule 10b-5 promulgated thereunder; violation of Section 20 of the Exchange Act (15 U.S.C. Section 78t); violation of Section 27, Article 3 of the Rules of Fair Practice of the NASD; violation of RICO, 18 U.S.C. Section 1961, et seq.; violation of 18 U.S.C. Sections 1341 and 1343; violation of 18 U.S.C. Section 1962 (c); violation of Section 1962 (a) and (c) of RICO, 18 U.S.C. Section 1961 (a) and (c), and breach of fiduciary duty by respondents John M. Culbertson ("Culbertson") and Mutual Service Corporation ("MSC"). The allegations arose out of transactions in the following securities: Metro International Bond Pool; Metro Insured Equity Fund; and Metro Equity Plus which had allegedly been purchased for Claimants' account between January of 1987, and January of 1990.

Claimants alleged having no knowledge or sophistication, and alleged complete reliance on the decisions of Culbertson. Claimants further alleged that they told Culbertson that the investments must have limited or no risk, must be liquid, and were for retirement. Claimants went on to allege that Culbertson represented to them that: He was a registered representative, and authorized agent and branch manager of MSC; MSC provided access to all stock exchanges, investment vehicles, and research for the sale of securities to investors; MSC maintained supervisory responsibility for compliance; MSC provided insurance for investors under SIPC and liability insurance; Culbertson was a specialist in retirement investments; and that all investments made with him were safe and liquid. These practices, statements, or omissions were alleged to be material or alleged to have been done with the specific intent to deceive or defraud or were alleged to have been false when made. Based on these representations, Claimants reasonably believed them to be true, and relied on them to make the investments listed above. Claimants have also alleged that Culbertson and MSC had failed to provide them with details of all investments, and had also failed to pay over all securities/monies in their account. Claimants next alleged that Culbertson converted the monies invested through him, and such conversion was done within the usual course of business for MSC, and within the scope of his employment. Lastly, Claimants also asserted that MSC knew or should have known of the conversion through internal supervision, and that MSC failed to maintain and enforce a proper system of internal supervision.

In its Answer to Claimants, Arthur and Lenore Olson's Statement of Claim, MSC denied each and every material allegation contained therein. In addition, MSC asserted the following defenses:

1. Claimants cause of action, if any, lies exclusively against Culbertson. Claimants did not deal with MSC, never

deposited any funds with MSC, and never acquired any securities through MSC. MSC did not in any way defraud or otherwise harm the Claimants.

2. If Claimants' allegations as to Culbertson are true, MSC is not vicariously liable for the fraud perpetrated by Culbertson. Culbertson was never an employee of MSC, and so the doctrine of respondeat superior is completely inapplicable. Culbertson was a registered representative of MSC who worked as an independent contractor. Culbertson's alleged dealings with the Claimants did not in any way involve MSC. Claimants' check was not payable to or received by MSC.

3. Even if the doctrine of respondeat superior were applicable, the alleged conduct of Culbertson could not be vicariously attributed to MSC because it would not be in support of MSC. See, e.g., Giraldi v. Lamson, 205 Ill. App. 3d 1025, 1029-30, 563 N.E.2d 956, 960 (1990). MSC never received any commission or other remuneration based on the alleged interactions between Culbertson and Claimants.

4. Claimants never actually purchased or sold a security. Accordingly, an essential claim of a securities fraud action is missing: namely, that the Claimants' alleged loss be "in connection with" the purchase or sale of a security.

5. Claimants' RICO claims are also legally insufficient (as well as factually baseless as against MSC). Claimants attempt to allege that MSC is both an "enterprise" under RICO and a liable person under 18 U.S.C. Section 1962(c). The enterprise and a liable party under this section cannot be the same person. See, e.g., Harco, Inc. v. American National Bank & Trust Co., 747 F.2d 384 (7th Cir. 1984), aff'd on other grounds, 105 S.Ct. 3291 (1985). Moreover, MSC never received income from any alleged racketeering activity in this case, and so Claimants' claim under 18 U.S.C. Section 1962(a) is also flawed. Finally, the Claimants have failed to allege the requisite pattern of activity to which RICO applies. See H J Inc. v. Northwestern Bell Telephone Co., 109 S.Ct. 2893, 2902 (1989); and Azurite Corp. v. Amster & Co., 730 F.Supp. 571, 581 (S.D.N.Y. 1990).

6. Claimants' charge that MSC failed to exercise adequate supervision over Culbertson is also without merit. MSC conducted and continues to conduct all reasonable and necessary supervision of activity undertaken by registered representatives in securities transactions that involve MSC. In this case, the Claimants' alleged loss has nothing to do with a securities transaction that involves MSC.

7. Claimants' cause of action, if any, is barred by the applicable statute of limitations.

For his Statement of Answer, Culbertson did not deny the allegations set forth in Claimants, Arthur and Lenore Olson's

Statement of Claim.

In their Amended Statement of Claim, Claimants reasserted the claims and allegations as set forth in their original Statement of Claim. In addition, Claimants alleged that respondents MSC and Culbertson continually, actively, and fraudulently concealed from Claimants material facts giving rise to the conversion of their money. Claimants further alleged that because they had received: interest payments until October of 1990; fraudulent statements of account to showing their investments were safe; assurances their investments were safe each time Culbertson was questioned, and letters sent by Culbertson concerning the alleged investments made by Culbertson, Claimants had no way of knowing of the fraud until November of 1990. In addition, Claimants alleged that all of the acts of Culbertson were within the scope and course of his employment with MSC, and Claimants alleged justification in reliance upon the appearance of authority respecting Culbertson's actions.

In its Answer to the Amended Statement of Claim, MSC denied each and every material allegation contained therein. MSC also reasserted its defenses as originally raised in its answer to the Statement of Claim. In addition, MSC raised the additional defenses that:

1. The Illinois Consumer Fraud Deceptive Business Practices Act does not properly apply to the alleged purchase or sale of securities regulated by other state and federal statutes. See Vanek v. Cosmano, No. 85C 0334 (N.D. Ill. Jan 24, 1986); Coron, Inc. v. American Heritage Savings & Loan Assoc. No. 85C 6380, 1986 Westlaw 2072 (N.D. Ill. Feb. 3, 1986). Cf. Mercer v. Jaffe, Sneider, Raitt and Heuer, 713 F.Supp. 1019, 1029-30 (W.D. Mich. 1989). Contra, Wislow v. Wong, 713 F.Supp. 1103, 1107 (N.D. Ill. 1989). Moreover, MSC's compliance with applicable securities laws defeats a purported claim under this Act in any event.

2. The Amended Statement of Claim should be stricken as untimely.

Claimant, the estate of Donald Bennett, ("Claimant") alleged: misrepresentations and omissions; conversion; failure to supervise; violation of Section 10 (b) of the Exchange Act and Rule 10b-5 promulgated thereunder; violation of Section 20 of the Exchange Act (15 U.S.C. Section 78t); violation of Section 27, Article 3 of the Rules of Fair Practice of the NASD; and breach of fiduciary duty by respondents John M. Culbertson ("Culbertson") and Mutual Service Corporation ("MSC"). The allegations arose out of transactions in the following securities: Metro International Bond Pool; and Metro Equity Plus which had allegedly been purchased for Claimants' account between January of 1987, and December of 1989.

Claimant alleged that Donald Bennett had no knowledge or sophistication, and alleged Mr. Bennett's complete reliance on

the decisions of Culbertson. Claimant further alleged that Donald Bennett told Culbertson that the investments must have limited or no risk, must be liquid, and were for retirement. Claimant went on to allege that Culbertson represented to Donald Bennett that: He was a registered representative, and authorized agent and branch manager of MSC; MSC provided access to all stock exchanges, investment vehicles, and research for the sale of securities to investors; MSC maintained supervisory responsibility for compliance; MSC provided insurance for investors under SIPC and liability insurance; Culbertson was a specialist in retirement investments; and that all investments made with him were safe and liquid. These practices, statements, or omissions were alleged to be material or alleged to have been done with the specific intent to deceive or defraud or were alleged to have been false when made. Based on these representations, it was alleged that Donald Bennett reasonably believed them to be true, and relied on them to make the investments listed above. Claimant has also alleged that Culbertson and MSC had failed to provide Mr. Bennett with details of all investments, and had also failed to pay over all securities/monies in his account. Claimant next alleged that Culbertson converted the monies invested through him, and such conversion was done within the usual course of business for MSC, and within the scope of his employment. Lastly, Claimant also asserted that MSC knew or should have known of the conversion through internal supervision, and that MSC failed to maintain and enforce a proper system of internal supervision.

In its Answer to Claimant, the Estate of Donald Bennett's Statement of Claim, MSC denied each and every material allegation contained therein. In addition, MSC asserted the same defenses that were raised in the case of Arthur and Lenore Olson v. John M. Culbertson and Mutual Service Corporation, No. 91-00635, and which are set forth more fully above.

In its Amended Statement of Claim, Claimant reasserted the claims and allegations as set forth in its original Statement of Claim. In addition, Claimant alleged that respondents MSC and Culbertson continually, actively, and fraudulently concealed from Donald Bennett material facts giving rise to the conversion of his money. Claimant further alleged that because Donald Bennett had received: interest payments until October, 1990; fraudulent statements of account; assurances that his investments were safe each time Culbertson was questioned; and letters from Culbertson concerning the alleged investments made by Culbertson, Mr. Bennett had no way of knowing of the fraud until November of 1990. In addition, Claimant alleged that all of the acts of Culbertson were within the scope and course of his employment with MSC, and Claimant alleged the justification of Donald Bennett in reliance upon the appearance of authority respecting Culbertson's actions.

In its Answer to the Amended Statement of Claim, MSC denied each and every material allegation contained therein. MSC also

reasserted its defenses as originally raised in its answer to the Statement of Claim. In addition, MSC raised the additional defenses contained in its Answer to the Amended Statement of Claim in the case of Arthur and Lenore Olson v. John M. Culbertson and Mutual Service Corporation, No. 91-00635, and set forth more fully above.

Claimant, Madeline Dantuma, ("Claimant") alleged: misrepresentations and omissions; conversion; failure to supervise; violation of Section 10 (b) of the Exchange Act and Rule 10b-5 promulgated thereunder; violation of Section 20 of the Exchange Act (15 U.S.C. Section 78t); violation of Section 27, Article 3 of the Rules of Fair Practice of the NASD; violation of RICO, 18 U.S.C. Section 1961, et seq.; violation of 18 U.S.C. Sections 1341 and 1343; violation of 18 U.S.C. Section 1962 (c); violation of Section 1962 (a) and (c) of RICO, 18 U.S.C. Section 1961 (a) and (c), and breach of fiduciary duty by respondents John M. Culbertson ("Culbertson") and Mutual Service Corporation ("MSC"). The allegations arose out of transactions in the following securities: Metro International Bond Pool; and Kleinwert-Benson allegedly purchased for her account between November of 1988, and June of 1989.

Claimant alleged having no knowledge or sophistication, and alleged complete reliance on the decisions of Culbertson. Claimant further alleged that she told Culbertson that the investments must have limited or no risk, and were to be used for her retirement. Claimant went on to allege that Culbertson represented to her that: He was a registered representative, and authorized agent and branch manager of MSC; MSC provided access to all stock exchanges, investment vehicles, and research for the sale of securities to investors; MSC maintained supervisory responsibility for compliance; MSC provided insurance for investors under SIPC and liability insurance; Culbertson was a specialist in retirement investments; and that all investments made with him were safe and liquid. These practices, statements, or omissions were alleged to be material or alleged to have been done with the specific intent to deceive or defraud or were alleged to have been false when made. Based on these representations, Claimant reasonably believed them to be true, and relied on them to make the investments listed above. Claimant had also alleged that Culbertson and MSC had failed to provide her with details of all investments, and had also failed to pay over all securities/monies in her account. Claimant next alleged that Culbertson converted the monies invested through him, and such conversion was done within the usual course of business for MSC, and within the scope of his employment. Lastly, Claimant also asserted that MSC knew or should have known of the conversion through internal supervision, and that MSC failed to maintain and enforce a proper system of internal supervision.

In its Answer to Claimant, Madeline Dantuma's Statement of Claim, MSC denied each and every material allegation contained therein.

In addition, MSC asserted the same defenses that were raised in the case of Arthur and Lenore Olson v. John M. Culbertson and Mutual Service Corporation, No. 91-00635, and which are set forth more fully above.

For his Statement of Answer, Culbertson did not deny the allegations set forth in Claimant, Madeline Dantuma's Statement of Claim.

In her Amended Statement of Claim, Claimant reasserted the claims and allegations as set forth in Claimant's original Statement of Claim. In addition, Claimant alleged that respondents MSC and Culbertson continually, actively, and fraudulently concealed from her material facts giving rise to the conversion of Claimant's money. Claimant further alleged that because she had received: interest payments until October, 1990; fraudulent statements of account; assurances that her investments were safe each time Culbertson was questioned; and letters from Culbertson concerning the alleged investments made by Culbertson, Claimant had no way of knowing of the fraud until November of 1990. In addition, Claimant alleged that all of the acts of Culbertson were within the scope and course of his employment with MSC, and Claimant alleged justification in reliance upon the appearance of authority respecting Culbertson's actions.

In its Answer to the Amended Statement of Claim, MSC denied each and every material allegation contained therein. MSC also reasserted its defenses as originally raised in its answer to the Statement of Claim. In addition, MSC raised the additional defenses contained in its Answer to the Amended Statement of Claim in the case of Arthur and Lenore Olson v. John M. Culbertson and Mutual Service Corporation, No. 91-00635, and set forth more fully above.

Claimant, Ara Louise Olson, ("Claimant") alleged: misrepresentations and omissions; conversion; failure to supervise; violation of Section 10 (b) of the Exchange Act and Rule 10b-5 promulgated thereunder; violation of Section 20 of the Exchange Act (15 U.S.C. Section 78t); violation of Section 27, Article 3 of the Rules of Fair Practice of the NASD; violation of RICO, 18 U.S.C. Section 1961, et seq.; violation of 18 U.S.C. Sections 1341 and 1343; violation of 18 U.S.C. Section 1962 (c); violation of Section 1962 (a) and (c) of RICO, 18 U.S.C. Section 1961 (a) and (c), and breach of fiduciary duty by respondents John M. Culbertson ("Culbertson") and Mutual Service Corporation ("MSC"). The allegations arose out of a transaction in Metro International Bond Pool allegedly purchased for her account in April of 1988.

Claimant alleged having no knowledge or sophistication, and alleged complete reliance on the decisions of Culbertson. Claimant further alleged that she told Culbertson that the investments must have limited or no risk, must be liquid, and were to be used for her retirement. Claimant went on to allege

that Culbertson represented to her that: He was a registered representative, and authorized agent and branch manager of MSC; MSC provided access to all stock exchanges, investment vehicles, and research for the sale of securities to investors; MSC maintained supervisory responsibility for compliance; MSC provided insurance for investors under SIPC and liability insurance; Culbertson was a specialist in retirement investments; and that all investments made with him were safe and liquid. These practices, statements, or omissions were alleged to be material or alleged to have been done with the specific intent to deceive or defraud or were alleged to have been false when made. Based on these representations, Claimant reasonably believed them to be true, and relied on them to make the investments listed above. Claimant had also alleged that Culbertson and MSC had failed to provide her with details of all investments, and had also failed to pay over all securities/monies in her account. Claimant next alleged that Culbertson converted the monies invested through him, and such conversion was done within the usual course of business for MSC, and within the scope of his employment. Lastly, Claimant also asserted that MSC knew or should have known of the conversion through internal supervision, and that MSC failed to maintain and enforce a proper system of internal supervision.

In its Answer to Claimant, Ara Louise Olson's Statement of Claim, MSC denied each and every material allegation contained therein. In addition, MSC asserted the same defenses that were raised in the case of Arthur and Lenore Olson v. John M. Culbertson and Mutual Service Corporation, No. 91-00635, and which are set forth more fully above.

For his Statement of Answer, Culbertson did not deny the allegations set forth in Claimant, Ara Louise Olson's Statement of Claim.

In her Amended Statement of Claim, Claimant reasserted the claims and allegations as set forth in Claimant's original Statement of Claim. In addition, Claimant alleged that respondents MSC and Culbertson continually, actively, and fraudulently concealed from her material facts giving rise to the conversion of Claimant's money. Claimant further alleged that because she had received: interest payments until October, 1990; fraudulent statements of account; assurances that her investment was safe each time Culbertson was questioned; and letters from Culbertson concerning the alleged investment made by Culbertson, Claimant had no way of knowing of the fraud until November of 1990. In addition, Claimant alleged that all of the acts of Culbertson were within the scope and course of his employment with MSC, and Claimant alleged justification in reliance upon the appearance of authority respecting Culbertson's actions.

In its Answer to the Amended Statement of Claim, MSC denied each and every material allegation contained therein. MSC also reasserted its defenses as originally raised in its answer to the

Statement of Claim. In addition, MSC raised the additional defenses contained in its Answer to the Amended Statement of Claim in the case of Arthur and Lenore Olson v. John M. Culbertson and Mutual Service Corporation, No. 91-00635, and set forth more fully above.

Claimants, E. Taliferro French and Dorothy French, ("Claimants") alleged: misrepresentations and omissions; conversion; failure to supervise; violation of Section 10 (b) of the Exchange Act and Rule 10b-5 promulgated thereunder; violation of Section 20 of the Exchange Act (15 U.S.C. Section 78t); violation of Section 27, Article 3 of the Rules of Fair Practice of the NASD; violation of RICO, 18 U.S.C. Section 1961, et seq.; violation of 18 U.S.C. Sections 1341 and 1343; violation of 18 U.S.C. Section 1962 (c); violation of Section 1962 (a) and (c) of RICO, 18 U.S.C. Section 1961 (a) and (c), breach of fiduciary duty; unsuitability; and unauthorized trades by respondents John M. Culbertson ("Culbertson") and Mutual Service Corporation ("MSC"). The allegations arose out of a transaction in Kleinwert-Benson allegedly purchased for their account in July of 1989.

Claimants alleged that they told Culbertson that the investments must have limited or no risk, and were to be used for their retirement. Claimants further alleged that Culbertson represented to them that: He was a registered representative, and authorized agent and branch manager of MSC; MSC provided access to all stock exchanges, investment vehicles, and research for the sale of securities to investors; MSC maintained supervisory responsibility for compliance; MSC provided insurance for investors under SIPC and liability insurance; Culbertson was a specialist in retirement investments; and that all investments made with him were safe and liquid. These practices, statements, or omissions were alleged to be material or alleged to have been done with the specific intent to deceive or defraud or were alleged to have been false when made. Based on these representations, Claimants reasonably believed them to be true, and relied on them to make the investment listed above. Claimants have also alleged that Culbertson and MSC had failed to provide them with details of all investments, and had also failed to pay over all securities/monies in their account. Claimants next alleged that Culbertson converted the monies invested through him, and such conversion was done within the usual course of business for MSC, and within the scope of his employment. Lastly, Claimants also asserted that MSC knew or should have known of the conversion through internal supervision, and that MSC failed to maintain and enforce a proper system of internal supervision.

In its Answer to Claimants, E. Taliferro French and Dorothy French's Statement of Claim, MSC denied each and every material allegation contained therein. In addition, MSC asserted the same defenses that were raised in the case of Arthur and Lenore Olson v. John M. Culbertson and Mutual Service Corporation, No. 91-00635, and which are set forth more fully above.

In their Amended Statement of Claim, Claimants reasserted the claims and allegations as set forth in Claimants' original Statement of Claim. In addition, the Claimants alleged that respondents MSC and Culbertson continually, actively, and fraudulently concealed from them material facts giving rise to the conversion of Claimant's money. Claimant further alleged that because they had received: interest payments until October, 1990; fraudulent statements of account; assurances that their investment was safe each time Culbertson was questioned; and letters from Culbertson concerning the alleged investment made by Culbertson, Claimant had no way of knowing of the fraud until November of 1990. In addition, Claimants alleged that all of the acts of Culbertson were within the scope and course of his employment with MSC, and Claimants alleged justification in reliance upon the appearance of authority respecting Culbertson's actions.

In its Answer to the Amended Statement of Claim, MSC denied each and every material allegation contained therein. MSC also reasserted its defenses as originally raised in its answer to the Statement of Claim. In addition, MSC raised the additional defenses contained in its Answer to the Amended Statement of Claim in the case of Arthur and Lenore Olson v. John M. Culbertson and Mutual Service Corporation, No. 91-00635, and set forth more fully above.

RELIEF REQUESTED

Claimants, Arthur and Louise Olson, requested:

1. Compensatory damages in excess of \$77,000.00;
2. Any additional punitive and consequential damages Claimants may establish at the arbitration hearing, including treble damages pursuant to RICO;
3. Interest at the legal rate, forum fees, attorney's fees and costs; and
4. Other proper and just relief.

Respondent Mutual Service Corporation requested that Claimants' claims contained in their Statement of Claim be denied.

Claimant, the Estate of Donald Bennett, requested:

1. Compensatory damages in excess of \$61,000.00;

2. Any additional punitive and consequential damages Claimants may establish at the arbitration hearing, including treble damages pursuant to RICO;

3. Interest at the legal rate, forum fees, attorney's fees and costs; and

4. Other proper and just relief.

Respondent Mutual Service Corporation requested that Claimant's claims contained in their Statement of Claim be denied.

Claimant, Madeline Dantuma, requested:

1. Compensatory damages in excess of \$12,500.00;

2. Any additional punitive and consequential damages Claimants may establish at the arbitration hearing, including treble damages pursuant to RICO;

3. Interest at the legal rate, forum fees, attorney's fees and costs; and

4. Other proper and just relief.

Respondent Mutual Service Corporation requested that Claimant's claims contained in their Statement of Claim be denied.

Claimant, Ara Louise Olson, requested:

1. Compensatory damages in excess of \$10,000.00;

2. Any additional punitive and consequential damages Claimants may establish at the arbitration hearing, including treble damages pursuant to RICO;

3. Interest at the legal rate, forum fees, attorney's fees and costs; and

4. Other proper and just relief.

Respondent Mutual Service Corporation requested that Claimant's claims contained in their Statement of Claim be denied.

Claimants, E. Taliaferro French and Dorothy French, requested:

1. Compensatory damages in excess of \$19,646.75;

2. Any additional punitive and consequential damages Claimants may establish at the arbitration hearing, including treble damages pursuant to RICO;

3. Interest at the legal rate, forum fees, attorney's fees

and costs; and

4. Other proper and just relief.

Respondent Mutual Service Corporation requested that Claimant's claims contained in their Statement of Claim be denied.

OTHER ISSUES CONSIDERED & DECIDED

Respondent John M. Culbertson 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. Respondent John M. Culbertson answered the claims in cases numbered 91-00635, 91-00653, and 91-00663, however, Respondent Culbertson did not appear at the hearing. After review of the service attempts by the NASD and the parties, the fact that Respondent Culbertson had answered claims in the aforementioned consolidated cases, and deliberation, the panel ordered the hearing to proceed pursuant to Section 29 of the Code of Arbitration Procedure. Respondent John M. Culbertson shall be bound by the determination of the arbitration panel on all issues submitted.

The parties present at the hearing have agreed that the Award in this matter may be executed by counterpart copies or that a handwritten, signed Award may 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.

AWARD

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. Respondents Mutual Service Corporation and John M. Culbertson are jointly and severally liable for, and shall pay to the Claimants, Arthur and Lenore Olson, the sum of \$77,000.00 plus interest at the rate of nine (9) percent per annum, from the date of filing of the Statement of Claim until paid, as satisfaction of their claims herein.

2. Respondents Mutual Service Corporation and John M. Culbertson are jointly and severally liable for, and shall pay to the Claimant, the Estate of Donald Bennett, the sum of \$61,000.00 plus interest at the rate of nine (9) percent per

annum, from the date of filing of the Statement of Claim until paid, as satisfaction of Claimant's claims herein.

3. Respondents Mutual Service Corporation and John M. Culbertson are jointly and severally liable for, and shall pay to the Claimant, Madeline Dantuma, the sum of \$12,500.00 plus interest at the rate of nine (9) percent per annum, from the date of filing of the Statement of Claim until paid, as satisfaction of her claims herein.

4. Respondents Mutual Service Corporation and John M. Culbertson are jointly and severally liable for, and shall pay to the Claimant, Ara Louise Olson, the sum of \$10,000.00 plus interest at the rate of nine (9) percent per annum, from the date of filing of the Statement of Claim until paid, as satisfaction of their claims herein.

5. Respondents Mutual Service Corporation and John M. Culbertson are jointly and severally liable for, and shall pay to the Claimants, E. Taliaferro and Dorothy French, the sum of \$19,646.75 plus interest at the rate of nine (9) percent, from the date of filing of the Statement of Claim until paid, as satisfaction of their claims herein.

6. Claimants', Arthur and Louise Olson, the Estate of Donald Bennett, Madeline Dantuma, Ara Louise Olson, and E. Taliaferro French and Dorothy French, claims for damages under RICO, punitive damages, and for attorney's fees are hereby denied and dismissed with prejudice.

7. Each Claimant and Respondent shall bear their own costs of this arbitration, except as set forth below.

FORUM FEES

Pursuant to Section 43 (c) of the NASD Code of Arbitration Procedure, the following forum fees are assessed:

4 hearing sessions X \$750.00 = \$3,000.00

Pursuant to Section 43 (c) of the Code of Arbitration, the NASD shall retain the nonrefundable filing fee in the amount of \$150.00, and shall retain the hearing session deposit in the amount of \$500.00 previously paid to the NASD by Claimants Arthur and Louise Olson.

Pursuant to Section 43 (c) of the Code of Arbitration, the NASD shall retain the nonrefundable filing fee in the amount of \$150.00, and shall retain the hearing session deposit in the

amount of \$500.00 previously paid to the NASD by Claimant the Estate of Donald Bennett.

Pursuant to Section 43 (c) of the Code of Arbitration, the NASD shall retain the nonrefundable filing fee in the amount of \$100.00, and shall retain the hearing session deposit in the amount of \$400.00 previously paid to the NASD by the Claimant Madeline Dantuma.

Pursuant to Section 43 (c) of the Code of Arbitration, the NASD shall retain the nonrefundable filing fee in the amount of \$75.00, and shall retain the hearing session deposit in the amount of \$200.00 previously paid to the NASD by the Claimant Ara Louise Olson.

Pursuant to Section 43 (c) of the Code of Arbitration, the NASD shall retain the nonrefundable filing fee in the amount of \$150.00, and shall retain the hearing session deposit in the amount of \$500.00 previously paid to the NASD by the Claimants E. Taliaferro French and Dorothy French.

Additional forum fees in the amount of \$900.00 are assessed against Respondent Mutual Service Corporation.

Fees are payable to the National Association of Securities Dealers, Inc.

CONCURRING ARBITRATORS

Dated:

May 7, 1992

/s/Steven A. Bloomberg
Steven A. Bloomberg
Presiding Chair
Public Arbitrator

May 8, 1992

/s/David L. Lee
David L. Lee
Public Arbitrator

May 7, 1992

/s/Gordon A. Neal
Gordon A. Neal
Industry Arbitrator