

N.A.S.D. ORDER

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimants

Michael J. and Lillian A. &  
Michael F. De Laurentis

No. 91-02006

Name of Respondents

Lind-Waldock Securities, Inc.  
Andrea LaRusso

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REPRESENTATION OF PARTIES

For Claimants: Michael J. De Laurentis appeared pro se on behalf of the Claimants.

For Respondent Lind Waldock Securities, Inc.: Mark Boyle, Esq. and Cheryl Fitzpatrick, Esq. of Lind Waldock

Respondent Andrea LaRusso failed to appear at the hearing, and has failed to file a Submission to Arbitration, and has also failed to file an answer to the Statement of Claim.

HEARING INFORMATION

On April 21, 1992, a telephonic hearing was held, lasting one (1) session, in Chicago, Illinois to discuss the Motion to Dismiss filed by Respondent Lind-Waldock Securities, Inc..

CASE SUMMARY

In June of 1991, claimants Michael J. and Lillian A. and Michael F. DeLaurentis ("Claimants") submitted this matter to arbitration. Claimants Statement of Claim alleged negligence, misrepresentation, suitability, breach of verbal contract, breach of promise, and breach of good faith by the respondents. Claimants allegations arose from options and futures traded on COMEX and the CBOT. The initial filing named Lind-Waldock & Company and Andrea LaRusso as respondents. At that time, the NASD could not assert jurisdiction over Lind-Waldock & Company because they were not a member of the NASD. On or about July 16, 1991, Claimants amended their Statement of Claim to include Lind-Waldock Securities, Inc. alleging that all contact was

with Andrea LaRusso acting as a representative of Lind-Waldock Securities, Inc.

In its Answer and Affirmative Defenses, Respondent Lind-Waldock Securities, Inc. ("Respondent") asserted that Lind-Waldock & Company and Lind-Waldock Securities, Inc. were completely separate corporations. Respondent had also alleged that all losses sustained by the Claimants in this case were sustained in their futures trading accounts with Lind-Waldock & Company. Respondent had requested that the arbitration be dismissed.

On April 1, 1992, Respondent filed a renewed Motion to Dismiss and request for a pre-hearing. The Motion asserted the Respondent was not a proper party to this arbitration.

On April 8, 1992, Claimants filed an Objection to the Motion to Dismiss. Claimants alleged that Respondent and Lind-Waldock & Company were connected, and that it was Respondent's responsibility to monitor, supervise, and control their representatives promotion and use or misuse of Respondent's name and facilities.

On April 16, 1992, Respondent filed a Section 12 (b) Motion requesting that the Director of Arbitration decline jurisdiction over this matter. The Motion alleged that Respondent was not a proper party to this arbitration. The Director declined to rule on this Motion, and left the issue of jurisdiction to the determination of the panel.

#### ORDER

On April 21, 1992, a telephonic hearing was convened for the purpose of determining the issue of jurisdiction of the NASD over Respondent. Lind-Waldock Securities, Inc. Respondent Andrea LaRusso failed to appear at the hearing. Without making a determination on the merits of the case, the arbitrators rule as follows:

1. Claimants', Michael J. and Lillean A. & Michael F. DeLaurentis, claims are hereby dismissed and denied without prejudice.
2. Each party shall be responsible for one-half of the hearing session fees incurred in this arbitration, as set forth more fully below.

#### FORUM FEES

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

1 hearing session x \$500.00 = \$500.00

Pursuant to Section 43 (c) of the Code of Arbitration Procedure, 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.

Respondent Lind-Waldock Securities, Inc. is liable for, and shall pay to the Claimants the sum of \$250.00, which constitutes one-half of the hearing session fees incurred in this arbitration.

Concurring Arbitrators:

Date:

May 7, 1992

/s/Michael S. Matek  
Michael S. Matek  
Chairman  
Public Arbitrator

May 6, 1992

/s/Joy B. Shulruff  
Joy B. Shulruff  
Industry Arbitrator

Arbitrator not participating in the hearing:

May 5, 1992

/s/Alan E. Case  
Alan E. Case  
Public Arbitrator