

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Linda D. & John E. Ross

Claimants

vs.

Southeast Bank Brokerage Service, Inc.

Respondent

CASE #91-02255
ANARD.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on July 24, 1991, Claimants Linda D. & John E. Ross who appeared Pro Se, alleged that Respondent Southeast Bank Brokerage Service, Inc. through their broker Gary Sacheck, failed to execute the sale of 800 shares of Southeast Banking Corp. common stock (held in 2 accounts) as instructed. Claimants further alleged that although the broker advised them there would be a problem selling the shares due to the "Code of Ethics" of the issuer firm, they should not have been subject to this Code because Claimants' position with Southeast Banking Corp. was not that of a "control person". The Claimants also alleged that when they attempted again to sell their stock, the limit order they placed was never executed, causing a loss to the Claimants.

Respondent, Southeast Bank Brokerage Service, Inc. through their President, Sheldon M. Frank, maintained that it denies the Claimant's allegations that the Claimants ordered the shares be sold, and that since 3,660 shares were sold from a separate account on that day, the Claimants should have noticed there was no confirm for the sale order of the 800 shares they allegedly made, when they received the confirm for 3,660 shares sold. Respondent further maintained that the "Code of Ethics" apply to all the employees of the firm, not just officers or control persons, and therefore the Claimants were responsible to keep informed about the company's Code of Ethics.

RELIEF REQUESTED

Claimants, Linda D. & John E. Ross requested \$4,600.00 in damages, plus costs.

Respondent, Southeast Bank Brokerage Service, Inc. requested the claims of the Claimants be dismissed.

AWARD


Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Herbert Anspach, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on July 19, 1991 and by the Respondent on August 23, 1991.

And, 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. The Respondent, Southeast Bank Brokerage Service, Inc. is liable and shall pay \$3,800.00 to the Claimants, Linda D. & John E. Ross in actual damages.
2. The parties shall bear their respective costs.
3. The \$125.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants shall be retained by the NASD, Inc. Southeast Bank Brokerage Service, Inc. shall pay \$125.00 to the Claimants Linda D. & John E. Ross as reimbursement.

AFFIRMATION

I, HERBERT ANSPACH, 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

DATE OF DECISION: March 26, 1992.