

N.A.S.D. FINAL ORDER

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Doley Securities, Inc.;
Harold Doley, Jr.

91-03975

Name of Respondents

First Commonwealth Securities Corp.;
Norbert Alonzo Simmons

REPRESENTATION

For Claimants: Doley Securities, Inc. ("Doley Securities") and Harold Doley, Jr. ("Doley") were represented by William E. Brown, Esq. of Covington, Louisiana.

For Respondents: First Commonwealth Securities Corp. ("First Commonwealth") and Norbert Alonzo Simmons ("Simmons") were represented by Mark R. Beebe, Esq. of Adams and Reese, located in New Orleans, Louisiana.

CASE INFORMATION

Statement of Claim filed: December 17, 1991.

Claimant Doley Securities' Submission Agreement signed on: December 5, 1991 by Harold E. Doley, Jr., Chairman, Doley Securities, Inc.

Claimant Doley's Submission Agreement signed on: December 5, 1991.

Amendment to the Statement of Claim filed on: December 21, 1992.

Statement of Answer filed by Respondents on: June 24, 1992.

Respondent First Commonwealth's Submission Agreement signed on: June 25, 1992 by Norbert A. Simmons, President, First Commonwealth Securities Corp.

Respondent Simmons' Submission Agreement signed on: June 25, 1992.

Motion to Dismiss filed by Respondents on: June 24, 1992.

Response to Motion to Dismiss filed by Claimants on: July 16, 1992.

Additional Response filed by Claimants on: June 24, 1994.

Reply to Additional Response filed by Respondents on: June 28, 1994.

HEARING INFORMATION

Hearing Date/Session: July 14, 1994 for One (1) session.
Hearing Location: New Orleans, Louisiana.

CASE SUMMARY

Claimants Doley Securities and Doley alleged that Respondents First Commonwealth and Simmons engaged in the following acts:

1. Illegally and improperly influenced the filing of a lawsuit in order to influence the vote of a scheduled bond issue before a local school board, resulting in a change of underwriters and a loss of income to Claimants in the area of \$25,000 to \$50,000;
2. In its capacity as a financial advisor to another Louisiana school board, induced the board to purchase bonds which violated NASD and MSRB rules because they were extremely inappropriate in meeting the customers needs;
3. First Commonwealth advised the same school board to invest these construction funds in 25 years bonds when the construction proceeds were to be expended over 24 months. At a meeting, the school board was informed that a \$2 million paper loss on the transaction had been corrected because of market conditions and that the school board would not sustain much of a loss; and
4. Simmons, on behalf of First Commonwealth, distributed malicious and fallacious statements and correspondence regarding Doley Securities to both present and former government officials who maintain certain influence in the issuance of municipal bonds.

Respondents denied the material allegations of the Statement of Claim and Amendments, asserting that:

1. The allegations of Claim No. 1 regarding illegal influence of a bond vote are baseless, false and unsupported by evidence, and the Claimants have no basis to make a claim for relief;
2. Neither Respondent has served as a financial advisor to a Louisiana school board, nor has any school board purchased 25 year bonds or generated any commission dollars to Respondents. While an employee of First Commonwealth

has a separately owned management company which has served as a financial advisor to school boards, the NASD has reviewed this matter and no action was deemed warranted; and

3. The letter attached to the claim which purports to contain the malicious statements does not refer to Claimants or make any statements about the Claimants. This allegation is not supported by any documentation or evidence.

RELIEF REQUESTED

Claimants requested that the Respondents cease and desist from their behavior, and that the violations of the NASD Rules of Fair Practice be decided by the Panel.

Respondents requested that the claims filed by Claimants be dismissed and denied without hearing.

OTHER ISSUES CONSIDERED & DECIDED

On July 14, 1994, a hearing was held telephonically before the full panel of arbitrators in order for the parties to argue Respondents' Motion to Dismiss. All pleadings and papers regarding the positions of the parties were forwarded to the panel for review. After hearing the argument of the parties counsel, the Panel met in executive decision. The Panel has determined that the Statement of Claim shall be dismissed without prejudice pursuant to Section 16 of the NASD Code of Arbitration Procedure and the parties referred to the remedies provided by applicable law.

FINAL ORDER

After considering the pleadings, the Motions and Responses filed, and the arguments presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. The claim filed by Claimants Doley Securities, Inc. and Harold E. Doley, Jr. is hereby dismissed without prejudice pursuant to Section 16 of the NASD Code of Arbitration Procedure and the parties are hereby referred to the remedies provided by applicable law;
2. The parties shall bear their own costs of arbitration, including attorneys' fees, except for those specifically enumerated herein; and
3. Any relief not specifically granted is hereby denied.

OTHER COSTS

The NASD shall retain the \$600.00 postponement fee paid by Claimants Doley Securities, Inc. and Harold E. Doley, Jr. and the \$600.00 postponement fee paid by Respondents First Commonwealth Securities Corp. and Norbert Alonzo Simmons.

FORUM FEES

Pursuant to Section 44(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed: One (1) hearing session x \$600.00 per session = \$600.00.

The National Association of Securities Dealers, Inc. shall retain the \$250.00 claim filing fee and \$300.00 of the \$600.00 hearing session deposit previously deposited by the Claimants, Doley Securities, Inc. and Harold E. Doley, Jr. The remaining \$300.00 shall be refunded to Claimants. Respondents First Commonwealth Securities Corp. and Norbert Alonzo Simmons are jointly and severally liable for and shall pay to the NASD forum fees in the sum of \$300.00.

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

Concurring Arbitrators' Signatures

Date




Robert R. Wolf
Industry Arbitrator
Chairperson

7/21/94



Cynthia M. Sheppard
Industry Arbitrator

7/26/94



William B. Miller
Industry Arbitrator

7/27/94

For NASD Use Only

Date of Decision: 8-3-94