

Respondent, Pacific Brokerage Services, Inc. by and through their Compliance Officer, James J. Kruger, maintained that Claimant, Alexander Toibman instructed them to sell his Laclede Gas 8.875% bonds due 3/15/99 and as a result of Claimant's sale of called bonds he was short \$3,000.00 principal amount. Respondent further maintained that they had no choice but to buy Claimant's short bond position "at the market price" and for over two months no bonds were offered for sale "at any price", at which time, Respondent attempted to buy the bonds from the market maker without success. Respondent contended that they notified all members of their clearing agent, Depository Trust Company ("DTC"), that they were looking for a seller of said bonds by sending a broadcast via DTC's network. Respondent further contended that they were offered

3,000 Laclede Gas bonds at no less than \$127.00 per bond and this was the only offer received, at which time, Respondent executed a buy-in pursuant to their written agreements with the Claimant. Respondent asserted that they acted in a reasonable manner and the execution price was not excessive considering the lack of supply and liquidity of this issue.

RELIEF REQUESTED

Claimant, Alexander Toibman requested \$750.00 in actual damages.

Respondent, Pacific Brokerage Services, Inc. requested the claim be dismissed.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Lydia O. Bishop, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on March 11, 1992 and by the Respondent on April 23, 1992.

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 claim of Claimant, Alexander Toibman against Respondent, Pacific Brokerage Services, Inc. is dismissed.
2. The parties shall bear their respective costs.
3. The \$30.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant, Alexander Toibman shall be retained by the NASD, Inc.

AFFIRMATION

I, **LYDIA O. BISHOP**, 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.

Lydia O. Bishop
Signature of Arbitrator

DATE OF DECISION: July 24, 1992

STATE OF: New Jersey

SS:

COUNTY OF: Hudson

On this 21 day of July 19 92, before me personally appeared **Lydia O. Bishop** to me known and known before me to be the individual described in and who executed the foregoing instrument and she duly acknowledged to me that she executed the same.

Lorraine Kimball
LORRAINE KIMBALL
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires Sept. 21, 1995