

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Name of Claimants

Dale M. Long and Vicki L. Long,
individually and as Trustees of the
Dale M. Long, P.C. Profit Sharing Plan
and the Dale M. Long, P.C. Pension Plan

and

92-00919

Name of Respondents

PaineWebber, Inc. and
Trent D. Stiles

REPRESENTATION OF PARTIES

Claimants were represented by Dennis B. Polk, Esq. of Holley, Albertson, & Polk, P.C., Golden, Colorado.

Respondents PaineWebber, Inc. and Trent D. Stiles were represented by Elyse A. Adrian, Esq. of PaineWebber, Inc., Weehawken, New Jersey.

CASE INFORMATION

The Statement of Claim was filed on or about March 17, 1992. Submission Agreements were signed on February 28, 1992 by Dale M. Long and Vicki L. Long, individually and on May 4, 1992 in their capacity as Trustees of the Dale M. Long, P.C. Profit Sharing Plan and the Dale M. Long, P.C. Pension Plan.

Statement of Answer was filed by Respondents PaineWebber, Inc. and Trent D. Stiles on or about June 24, 1992. Amended Statement of Answer filed on or about November 5, 1992. Respondent PaineWebber, Inc.'s Submission Agreement was signed on June 22, 1992 by Romaine L. Gardner. Respondent Trent D. Stiles' Submission Agreement was signed on May 26, 1992.

HEARING INFORMATION

The hearing was held on Friday, November 13, 1992 in Denver, Colorado for a total of two (2) sessions.

CASE SUMMARY

Claimant alleged that Respondents made a number of unauthorized transactions in the Profit Sharing Plan account, including but

limited to the purchases of the following securities: Energy Service Co., Inc., AT&T, Unocal Corp., Kimmins Environmental Service Corp., Growth Fund of Spain, Carolco Pictures, Inc., Burlington Resources, Inc., and Phillips Petroleum Company. Claimants specifically alleged that the unauthorized transactions constituted breach of contract, negligence, and breach of fiduciary duty.

Respondents denied the allegations of Claimants and stated that the transactions were entered pursuant to the instructions and authorization of Claimants.

RELIEF REQUESTED

Claimants requested an award in the amount of \$5,844.61, together with interest at the maximum rate provided by law or contract, attorney's fees, costs, and for such other and further relief as the Arbitrator deems just and proper.

Respondents requested that the claims asserted herein be dismissed with prejudice, with costs to be taxed against claimants, including but not limited to, reasonable attorney's fees incurred by Respondents in defending this matter.

OTHER ISSUES CONSIDERED & DECIDED

Claimant requested leave to amend the claims asserted in this matter to include losses in the Claimants' IRA account. After considering the arguments of the parties, the arbitrator denied the request. Claimant's counsel later asked the arbitrator to reconsider the denial which was denied.

The undersigned arbitrator did not consider potential claims of the Pension Plan since no claim was asserted in the Statement of Claim or evidence presented at the hearing concerning the Pension Plan although it was included as a Claimant in this matter.

The parties have agreed that a handwritten, signed Award may be entered and to receive conformed copies of the award while the original remains on file with the NASD.

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. The claims asserted herein shall be and hereby are dismissed with prejudice.

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2. Each party shall bear its own costs, expenses and attorney's fees incurred in this matter not specifically enumerated herein.

FORUM FEES

Pursuant to Section 43(c) of the NASD Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. ("NASD") shall retain the non-refundable filing fee in the amount of \$75.00 and shall retain the hearing session deposit in the amount of \$200.00 previously deposited with the NASD by the Claimant and Respondent PaineWebber shall pay to the NASD the sum of \$200.00 as forum fees.

Forum fees are calculated at the rate of \$200.00 per hearing session. Fees are payable to the National Association of Securities Dealers, Inc.

Dated:

November 24, 1992


James S. Elchberg
Presiding Chair
Public Arbitrator