

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Name of Claimant

Raymon and Linda Thomason
and Cattle Call, Inc.

and

92-02576

Name of Respondent

Merrill Lynch, Pierce, Fenner & Smith, Inc.

REPRESENTATION OF PARTIES

Claimants Raymon and Linda Thomason and Cattle Call, Inc. were represented by Wayne M. Whitaker, Esq. of Gandy Michener Swindle & Whitaker, L.L.P., Fort Worth, Texas.

Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. was represented by Gregory D. May, Esq. of Munsch Hardt Kopf Harr & Dinan, P.C., Dallas, Texas.

CASE INFORMATION

The Statement of Claim was filed on or about August 4, 1992. Submission Agreement of Claimants Raymon and Linda Thomason was signed on August 6, 1992. Submission Agreement of Claimant Cattle Call, Inc. was signed on August 6, 1992 by Linda Thomason.

Statement of Answer was filed by Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. on or about October 6, 1992. Submission Agreement of Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. was signed on October 26, 1992 by Michael J. Stewart.

HEARING INFORMATION

The hearing was held on Thursday, May 13, 1993 for two (2) sessions in Dallas, Texas.

CASE SUMMARY

Claimants Raymon and Linda Thomason and Cattle Call, Inc. alleged that Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill") failed to enter a purchase order to purchase call options on 50,000 shares of Wal Mart Stores, Inc. stock.

Respondent Merrill stated that it had properly and prudently revoked Claimants' options approval prior to the order to purchase the call options, that Claimants assert a claim for speculative "lost profits" that is not supported by the evidence and that Claimants failed to mitigate their damages.

RELIEF REQUESTED

Claimants requested an award in the amount of \$3,300,000.00, plus dividends.

Respondent requested that the claims be denied, that all costs and fees be assessed against the Claimants, and that it be awarded its reasonable attorney's fees together with any further relief to which it may be entitled.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with the N.A.S.D..

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing and the post-hearing submissions, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant shall be awarded nothing.
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 N.A.S.D. Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. ("N.A.S.D.") shall retain the non-refundable filing fee

in the amount of \$250.00 and shall retain as forum fees the hearing session deposit in the amount of \$1,000.00 previously deposited with the N.A.S.D. by the Claimants and Claimants shall pay to the N.A.S.D. the sum of \$1,000.00 as forum fees.

Forum fees are calculated at the rate of \$1,000.00 per hearing session and \$300.00 for each prehearing conference, if any.

The N.A.S.D. shall retain postponement fees in the amount of \$1,000.00 previously deposited with the N.A.S.D. by the Claimants. Fees are payable to the National Association of Securities Dealers, Inc.

Dated:

s/ Arch B. Gilbert, Esq.
Arch B. Gilbert, Esq.
Public Arbitrator, Presiding Chair

June 14, 1993

s/ James S. Raber, Esq.
James S. Raber, Esq.
Public Arbitrator

June 11, 1993

s/ David T. Gentry
David T. Gentry
Industry Arbitrator

June 14, 1993