

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Bill Merrill (Wendell W. Merrill)

vs.

NASD #92-02702

Name of Respondents

First American Biltmore Securities,  
Jay Nance,  
E. Shawn Casias,  
Bruce Wank

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REPRESENTATION

For Claimant: Joseph M. Galosic, Esq. of Ostwald & Yap, of Irvine, California

For Respondents: First American Biltmore Securities - J. Nevers, E. Casias - B. Freasier, B. Wank - Pro Se, and J. Nance - Pro Se

CASE INFORMATION

Statement of Claim filed: August 12, 1992

Claimant's Submission Agreement signed: August 7, 1992

Statement of Answer filed by Respondents on: Wank September 3, 1992  
Casias September 14, 1992. Respondent First American Biltmore did not file an Answer

Respondents' Submission Agreements signed on: Wank August 19, 1992, Casias September 8, 1992. Respondent First American Biltmore did not file a Submission Agreement or an Answer and did not appear at the hearing, although duly served. It is subject to National Association of Securities Dealers, Inc. (NASD) jurisdiction in accordance with Section 12 of the NASD Code of Arbitration Procedure.

### **HEARING INFORMATION**

Prehearing Conference(s) Date(s)/(Sessions): None

Hearing Date/(Sessions): April 27, 1993 (two sessions)

Hearing Location: Los Angeles, California

### **CASE SUMMARY**

Claimant alleged: Misrepresentation and lack of suitability in the purchase of First American Biltmore, Kaempfen Tech., World Wide Stone, Keller Ind. and New Valley.

Respondent Nance alleged: the sell order in question was given to him by respondent Casias as a "limit" order and not a market order. The market moved away very quickly and the trading department was unable to get it executed. He was never involved in any conversation about a "cross" trade.

Respondents Wank and Casias denied all substantive allegations of the Statement of Claim

### **RELIEF REQUESTED**

Claimant requested:

1. Compensatory damages of \$23,159.50;
2. Interest

### **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 originals remain on file with the NASD.

### **AWARD**

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

1. All claims are dismissed
2. The parties shall each bear their respective attorney's fees;
3. The parties shall each bear their respective costs.

**OTHER COSTS**

None.

**FORUM FEES**

Pursuant to Section 43c of the Code of Arbitration Procedure, the following forum fees are assessed: The National Association of Securities Dealers, Inc. shall refund the \$400 hearing session deposit previously deposited by the claimant. Forum fees assessed against:

Respondent First American Billmore Securities, Inc. for \$800

calculated as follows: Two hearing sessions at \$400/hearing session, equals \$800.

Fees are payable to the National Association of Securities Dealers.

**ARBITRATION PANEL**

**Name**

**Public/Industry**

Wayne E. Gallop, Esq.

Public Arbitrator

Philip W. Burge

Public Arbitrator

John P. McShane

Industry Arbitrator

Concurring Arbitrators' Signature

DATE SERVED: 06/14/93

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Wayne E. Gallop, Esq.

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Philip W. Burge

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John P. McShane

Date of Decision: \_\_\_\_\_