

**N.A.S.D. AWARD**

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

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In the Matter of the Arbitration Between

Name of Claimants

John D. and Linda Armstrong

and

92-03661

Name of Respondents

Cullom & Sandow Securities, Inc. and  
Richard Wells

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**REPRESENTATION OF PARTIES**

John D. and Linda Armstrong ("Claimants") were represented by Arch B. Gilbert, Esq., Fort Worth, Texas.

Cullom & Sandow Securities, Inc. and Richard Wells ("Respondents") were represented by Ben L. Krage, Esq. of Kasmir & Krage, L.L.P., Dallas, Texas.

**CASE INFORMATION**

The Statement of Claim was filed on or about October 29, 1992. Submission Agreement of Claimants John D. and Linda Armstrong was signed on October 15, 1992.

Statement of Answer was filed by Respondents Cullom & Sandow Securities, Inc. and Richard Wells on or about January 4, 1993. Submission Agreement of Respondent Cullom & Sandow Securities, Inc. was signed on January 4, 1993 by Steven Burks. Submission Agreement of Respondent Richard Wells was signed on January 4, 1993.

**HEARING INFORMATION**

The hearing was held on Wednesday, April 13, 1994 for two (2) sessions; Thursday, April 14, 1994 for two (2) sessions and Thursday, May 26, 1994 for two (2) sessions in Dallas, Texas for a total of six (6) sessions.

**CASE SUMMARY**

Claimant alleged that the accounts at Cullom & Sandow were opened with the objective of investing the funds in a closed-end bond fund, which Wells never did. Claimants further alleged

that Wells speculated with the funds by buying and selling market index options and puts and calls, which were unsuitable investments for the Claimants. It was also alleged that the Claimants were not experienced securities investors and were not able to read and understand the statements they received from Cullom & Sandow.

The claims asserted against the Respondents were denied. Respondents stated that Claimant John D. Armstrong was an experienced investor in both securities and real estate and is engaged in the business of being an insurance broker. It was further stated that Mr. Armstrong persisted in his desire to trade options and that he advised Mr. Wells that he was aware of the risks and dangers of such trading. Respondents also stated that Mr. Armstrong advised Mr. Wells that he intended to trade stock options with IRA funds because he could afford to lose that money.

### **RELIEF REQUESTED**

Claimants requested an award against Respondents jointly and severally, as follows:

- \* John D. Armstrong requests an award of actual damages in the amount of \$56,286;
- \* Linda Armstrong requests an award of actual damages in the amount of \$8,203;
- \* both Claimants requested an award of pre award and post award interest as may be allowed by law;
- \* both Claimants requested an award of reasonable attorneys' fees incurred by them in the preparation and prosecution of this matter;
- \* both Claimants requested an award of fees of expert witnesses, filing fees and other costs of this matter; and such other and further relief to which the Claimants may be justly entitled and as may be necessary to achieve justice in this matter.

Respondents requested that the claims asserted against them be dismissed and that they be awarded costs and reasonable attorneys' fees.

### **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 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. The claims asserted in this matter shall be and hereby are dismissed and denied in their entirety.
2. Each party shall bear its own costs, expenses and attorneys' fees incurred in this matter not specifically enumerated herein.

### **FORUM FEES**

Forum fees are calculated at the rate of \$500 per hearing session and \$300 for each prehearing conference, if any. There were 6 sessions x \$500 = \$3,000 in forum fees. Pursuant to §43(b) a hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less.

Pursuant to §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 \$150 and shall retain as forum fees the hearing session deposit in the amount of \$500 previously deposited with the NASD by the Claimant. Claimants shall be and hereby are liable for and shall pay to the NASD the sum of \$2,500 as the balance due for forum fees.

The NASD shall retain postponement fees in the amount of \$500 previously deposited with the NASD by Respondent Richard Wells. Fees are payable to the National Association of Securities Dealers, Inc.

Dated:

s/ Marc A. Myrin, Esq.  
Marc A. Myrin, Esq.  
Public Arbitrator, Presiding Chair

June 10, 1994

s/ Harold L. Sutherland  
Harold L. Sutherland  
Public Arbitrator

s/ Ned B. Young  
Ned B. Young  
Industry Arbitrator

June 10, 1994