

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Joanne and Edward McCormick

92-03990

Name of Respondents

Horace M. Lowman, Jr.
William F. Haneman, Jr.
Joseph C. DeNicola

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on November 25, 1992, Claimants Joanne and Edward McCormick, who appeared Pro Se, alleged that at approximately 8:58 a.m. on February 27, 1992 Claimant Edward McCormick spoke to Respondent Joseph C. DeNicola, Investment Executive at Legg Mason Wood Walker, Inc. concerning buying UNRI, at which time, Respondent Joseph C. DeNicola spoke to Respondent William F. Haneman, Jr., Senior Vice President; who withheld the fact that he was a market maker in UNRI; and received a quote of a market of 3 3/4-4. Claimants further alleged that Claimant Edward McCormick entered an order with Respondent Joseph C. DeNicola to buy 2,000 shares on UNRI at 3 7/8 plus commission, which order was stamped by Legg Mason Wood Walker, Inc. at 8:58 a.m. Claimants contended that the next day a trade executed at 3 3/4 was printed in the New York Times whereby Claimant Edward McCormick contacted Respondent Joseph C. DeNicola, who advised him he would check it out and later referred Claimants to Charles Bacigalupo, Director of Compliance for Legg Mason Wood Walker, Inc., who referred the matter to Respondent Horace M. Lowman, Jr., Senior Vice President, at which time, Respondent Horace M. Lowman, Jr. dismissed the matter completely. Claimants further contended that on February 27, 1992 Respondent William F. Haneman, Jr. quoted a market in UNRI of 3 3/4 bid and 4 offer, at which time, Claimant entered a bid of 3 7/8 for 2,000 shares whereby the Inside Quote Inquiry and Bloomberg reports show that Respondent William F. Haneman, Jr. withheld information of Claimants' bid from the market place. Claimants asserted that Respondents withheld information and failed to execute their order as instructed, thus, Claimants should receive a satisfactory judgement of a proper execution of their order.

Respondents Horace M. Lowman, Jr., William F. Haneman, Jr. and Joseph C. DeNicola, by and through their counsel C. Gregory Kallmyer, Esq. of Legg Mason Wood Walker, Inc. maintained that review of the trading of UNRI on February 27, 1992 reflected that Claimants Joanne and Edward McCormick's buy limit order could not have been executed. Respondents further maintained that moreover, this review was independently verified by Stephen L. Cohen, Compliance Specialist of the NASD, in his letter of April 22, 1992 to the Claimants which stated, "... your limit order was not executed because the price at which you, as a customer, wanted to purchase the stock was never reached". Respondents contended that Mr. Cohen concluded by reporting to the Claimants, "Based on a review of the documentation, it does not appear that any improprieties took place regarding your transaction", thus, Claimants allegations have been repeatedly reviewed and this matter should be dismissed.

RELIEF REQUESTED

Claimants Joanne and Edward McCormick requested a satisfactory judgement of a proper execution of their buy order without commission unless the arbitrator deems it "just and right" that they be provided the stock at no cost, plus the rights to any dividends payable as if they owned the stock from February 27, 1992 and reimbursement of the NASD filing fee.

Respondents Horace M. Lowman, Jr., William F. Haneman, Jr. and Joseph C. DeNicola requested the claim be denied and all fees and costs be borne solely by the Claimants.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator Eugene J. McCabe, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on November 20, 1992, by the Respondent Horace M. Lowman, Jr. on February 12, 1993, by the Respondent William F. Haneman, Jr. on February 11, 1993 and by the Respondent Joseph C. DeNicola on February 11, 1993.


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 claims of Claimants Joanne and Edward McCormick against Respondents Horace M. Lowman, Jr., William F. Haneman, Jr. and Joseph C. DeNicola are dismissed.
2. The parties shall bear their respective costs.

3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants Joanne and Edward McCormick shall be retained by the NASD, Inc.

AFFIRMATION

I, EUGENE J. McCABE, ESQ., 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.



Signature of Arbitrator

DATE OF DECISION: May 18, 1993

STATE OF: *New Jersey*

SS:

COUNTY OF: *Monmouth*

On this 14 day of May 19 93, before me personally appeared Eugene J. McCabe, Esq. to me known and known before me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.



ANNA GOCLIN
Notary Public of New Jersey
My Commission Expires July 18, 1994