

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

Name of Claimants

G. George Fox
Kathleen S. Fox

No. 93-00141

Name of Respondent

Paulson Investment Company, Inc.

REPRESENTATION OF PARTIES

For Claimant G. George Fox: Keevan Morgan, Esq., of Morgan & Bley, Chicago, Illinois.

Claimant Kathleen S. Fox appeared pro se, and relied on her husband and his counsel for her case presentation.

For Respondent: Keith A. Ketterling, Esq., of Stoll, Stoll, Berne & Lokting, P.C., Portland, Oregon.

CASE INFORMATION

Statement of Claim filed on or about: January 12, 1993.

Claimants' Submission Agreement signed: January 8, 1993.

Statement of Answer filed by Respondent on or about: March 24, 1993.

Respondent's Submission Agreement signed on: February 5, 1993.

Claimants' Amendment to the Statement of Claim filed on or about: August 25, 1993.

Respondent's response to the Amendment filed on or about: September 10, 1993.

HEARING INFORMATION

Hearing date: October 12, 1993. One (1) session.

Hearing Location: Chicago, Illinois.

CASE SUMMARY

Claimants, G. George Fox and Kathleen S. Fox ("Claimants") alleged that contrary to their instructions, the file to purchase the Anchor Bancorp common stock had not been sent to the bank. Instead, Claimants alleged that Respondent, Paulson Investment Company, Inc.'s ("Respondent") employees had faxed the required information and wired funds to the bank contrary to the instructions on the order form. Claimants further alleged that Respondents's employees had told them on June 29, 1993, that the order package information was waiting for pick up for over-night delivery to the bank in Madison, Wisconsin as per the bank's, instructions. Claimant asserted that the facsimile order information and the wired funds were returned to them by the bank, and the order never entered.

In its Answer, unless specifically admitted therein, Respondent denied each and every allegation contained in the Statement of Claim. In addition, Respondent set forth the following affirmative defenses:

1. At all times, Respondent and its employees exercised reasonable care.
2. Any losses sustained by Claimants are attributable to Claimants' own actions, not to any action or inaction on Respondent's behalf.
3. Claimants have failed to state a claim against Respondent upon which relief may be granted.
4. If any losses or damages were suffered by Claimants, such losses or damages were caused, in whole or in part, by Claimants' own negligence.
5. Respondent is not liable for any damages suffered by Claimants because acts of others constitute independent, intervening, and superseding causes, relieving Respondent of any liability.
6. If any losses or damages were suffered by Claimants, then Claimants failed to take the reasonable and necessary steps in order to mitigate and minimize such losses and damages.
7. Respondent owed no duty to Claimants.

RELIEF REQUESTED

Claimants requested that 5,000 shares of Anchor Bancorp common stock be delivered to their accounts, 4,000 shares to G. George Fox's retirement account and 1,000 shares in Kathleen S. Fox's account as well as Claimant's costs in this matter. Claimant also requested an award of punitive damages against the Respondent.

Respondent requested an award dismissing the Statement of Claim, together with the costs, disbursements, and attorney fees incurred in this action.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this matter may be executed by 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. Respondent, Paulson Investment Company, Inc. is liable for, and shall pay to Claimant, Kathleen S. Fox the sum of \$3,250.00 as satisfaction of all of her claims herein.
2. Respondent, Paulson Investment Company, Inc. is liable for, and shall pay to the Claimant, G. George Fox the sum of \$13,000.00 as satisfaction of all of his claims herein.
3. Claimants' claim for punitive damages is hereby denied and dismissed with prejudice.

OTHER COSTS

Each party shall bear its own costs associated with this arbitration, including attorneys' fees.

FORUM FEES

Pursuant to Section 43(c) of the NASD Code of Arbitration Procedure, the following forum fees are assessed:

1 hearing session x \$650.00 = \$650.00

Pursuant to Section 43(c) of the Code, the NASD shall retain the nonrefundable filing fee in the amount of \$200.00, and shall retain the hearing session deposit in the amount of \$650.00 previously paid to the NASD by Kathleen S. Fox on behalf of the Claimants.

Pursuant to Sections 30(b) and 43(c) of the Code, the NASD shall retain the postponement fee in the amount of \$650.00 previously paid to the NASD by the Respondent.

CONCURRING ARBITRATORS

Dated:

Name:

October 12, 1993

/s/Peter R. Sonderby
Peter R. Sonderby
Presiding Chair
Public Arbitrator

October 12, 1993

/s/Sanford G. Kahn
Sanford G. Kahn
Public Arbitrator

October 12, 1993

/s/Richard P. Allen
Richard P. Allen
Industry Arbitrator

Date of Service by the NASD: 10-13-93