

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the matter of the Arbitration Between

Name of Claimant(s)

Benjamin Lincoln
Elsie Lincoln

NASD Arbitration
No. 93-03523

Name of Respondent(s)

Quick & Reilly, Inc.
Robert William Bayliff

REPRESENTATION

For Claimants: Benjamin Lincoln, Santa Barbara, California

For Respondents: Nicholas J. Chohey, Quick & Reilly, Inc., New York, New York

CASE INFORMATION

Statement of Claim filed: August 3, 1993

Amended Statement of Claim filed: October 6, 1993

Claimants' Submission Agreements signed as follows:

Benjamin Lincoln: August 20, 1993 and October 1, 1993

Elsie Lincoln: October 1, 1993

Joint Statement of Answer filed by Respondents: December 13, 1993

Respondents' Submission Agreements signed as follows:

Quick & Reilly, Inc.: December 13, 1993

Robert William Bayliff: November 13, 1993

HEARING INFORMATION

Pre-Hearing Conference Date(s)/Session(s): None

Hearing Date(s)/Session(s): July 27, 1994 (one session)

Hearing Location: Los Angeles, California

CASE SUMMARY

Claimants alleged that Respondents failed to execute Claimants' instruction to sell 9,500 shares of Southland Communications Inc. stock. Claimants further alleged negligence, breach of fiduciary duty, negligent misrepresentation and constructive trust.

Respondents denied any liability to Claimants and alleged that Claimants' request for damages is a request for undue enrichment made with the benefit of hindsight. Respondents further alleged that they acted with due diligence at all times with respect to Claimants' account and that the Respondents cannot be held liable for the market conditions that caused the Claimants' order not to be filled.

RELIEF REQUESTED

Claimants requested damages in the amount of \$9,500.00.

Respondents requested dismissal of Claimants' claims.

OTHER ISSUES CONSIDERED AND DECIDED

None.

AWARD

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

1. Claimants are liable for and shall turn over to Respondents 9,500 shares of Southland Communications Inc. stock.
2. Respondents are jointly and severally liable for and shall pay to Claimants the sum of \$4,750.00.
3. The parties shall each bear their respective costs including attorney's fees.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following forum fees are assessed: The NASD shall retain the \$200.00 hearing session deposit previously deposited by the Claimants as costs of this proceeding.

PRESIDING ARBITRATOR

Name Joseph J. Aron Public / Industry
Joseph J. Aron, Esq. Public Arbitrator

Presiding Arbitrator's Signature

Joseph J. Aron
Joseph J. Aron, Esq.

Date of Decision: July 30, 1994