

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Name of Claimant

Smith Barney Shearson, Inc.

93-04657

and

Name of Respondents

Merlin Voorhees & Merlin Voorhees d/b/a Sully County Partners

REPRESENTATION OF PARTIES

Claimant, Smith Barney Shearson, Inc. ("Smith Barney") was represented at the hearing by J. Jackson, Esq. of Dorsey & Whitney, Minneapolis, Minnesota.

Respondents, Merlin Voorhees ("Voorhees") & Merlin Voorhees d/b/a Sully County Partners ("Sully") were not present at the hearing. However, they were represented by Patrick J. Kane, Esq. of Sioux Falls, South Dakota.

CASE INFORMATION

The Statement of Claim was filed on November 8, 1993. Submission Agreement of Claimant was signed on November 4, 1993.

Respondents did not file a Statement of Answer or a Submission Agreement.

HEARING INFORMATION

The hearing was held on June 30, 1994 in Minneapolis, Minnesota for a total of one session.

CASE SUMMARY

Claimant, Smith Barney alleged that Respondents Voorhees and Sully signed two separate Promissory Notes for a debit balance in their account which occurred as a result of a margin call incurred while trading commodities/futures. Smith Barney alleged that despite their demand for payment, the notes have not been paid.

RELIEF REQUESTED

Claimant requested the amount of \$34,287.39 which represents the combined debits of the partnership account and the individual account, plus interest, reasonable attorney's fees, and costs.

OTHER ISSUES CONSIDERED & DECIDED

Upon review of the file, the panel has determined that Respondents Merlin Voorhees & Merlin Voorhees d/b/a Sully County Partners, have been properly served with the Statement of Claim pursuant to §13 and §25 of the N.A.S.D. Code of Arbitration Procedure (the "Code"). The panel also determined that Respondents had received due notice of the hearing as required under §26 of the Code and that arbitration of the matter would proceed pursuant to §29 of the Code.

Respondents, Merlin Voorhees & Merlin Voorhees d/b/a Sully County Partners did not file with the N.A.S.D. a properly executed submission to arbitration but is required to submit to arbitration pursuant to §12 of the N.A.S.D. Code of Arbitration Procedure (the "Code").

The parties present at the hearing 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 N.A.S.D.

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. Respondents, Merlin Voorhees and Merlin Voorhees d/b/a Sully County Partners, shall be and hereby are liable for, and shall pay to the Claimant, the amount of the two notes, including interest, as follows:

a. Fourteen Thousand, Nine Hundred Thirty Six Dollars and Thirty Four Cents (\$14,936.34) plus interest at six percent (6%) from February 15, 1992 to June 30, 1994 which interest payment equals Two Thousand One Hundred Twenty Eight Dollars and Forty Two Cents (\$2128.42);

b. Nineteen Thousand, Three Hundred Fifty One Dollars and Five Cent (\$19,351.05) plus interest at six percent (6%) from February 15, 1992 to June 30, 1994 which interest payment equals Two Thousand Three Hundred Seventy Dollars and Fifty Cents (\$2,370.50);

2. Respondents Merlin Voorhees and Merlin Voorhees d/b/a Sully County Partners, shall be and hereby are liable for, and shall pay to the Claimant, attorney's fees in the amount of Seven Hundred and Fifty Dollars (\$750);

3. Each of the parties shall bear their own costs and expenses other than those specifically enumerated for herein.

FORUM FEES

Pursuant to §43(c) of the N.A.S.D. Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. ("N.A.S.D.") shall retain the non-refundable filing fee in the amount of \$500.00 and shall retain as forum fees the hearing session deposit in the amount of \$600.00 previously deposited with the N.A.S.D. by the Claimant.

The panel has ordered that Respondents Merlin Voorhees and Merlin Voorhees d/b/a Sully County Partners, reimburse claimant Smith Barney Shearson, the amount of \$600 which was the amount they previously deposited with the N.A.S.D.

There are no additional fees due to the N.A.S.D.

By The Arbitration Panel:

D. Randall Blohm s/s

D. Randall Blohm, Esq.
Public Arbitrator, Presiding Chair

Thomas J. Gmeinder s/s

Thomas J. Gmeinder
Public Arbitrator

Roger E. Larson s/s

Roger E. Larson
Industry Arbitrator

Dated:
August 3, 1994

August 5, 1994

August 1, 1994

Date Award Served By The N.A.S.D.: August 10, 1994.