

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Ralph E. and Pamela W. Myers

95-03484

Name of Respondents

Edward D. Jones & Co.
David F. Wortman

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on July 19, 1995, Claimants Ralph E. and Pamela W. Myers ("Claimants"), who appeared Pro Se, alleged that Respondents Edward D. Jones & Co. ("EDJ"), and David F. Wortman ("Wortman"), informed them that a buyout of Chiron was to take place but failed to inform them of the deadline for tendering their personally held 500 share certificate. Claimants further alleged that they believed that they sent the certificate to EDJ before the deadline and therefore, sold some shares of other stocks in order to offset the gain they expected to realize from the Chiron buyout. Claimants contended that the certificate was late and only 38 of their 100 shares held in their account at EDJ received the buyout price. Claimants further contended that an additional 190 shares should have been sold for the buyout price and as a result of the above, they have suffered a loss for which the Respondents should be held liable.

Respondents Edward D. Jones & Co. and David F. Wortman, through their representative and counsel, Joan G. Stenson, of Weisenfels & Vaughan, located in Kansas City, MO, maintained that Claimants purchased 600 shares of Chiron stock and decided to hold 500 shares of it in their individual name instead of in the firm name at EDJ. Respondents further maintained that the Claimants are well-educated and sophisticated investors whose responsibility it was to inform the issuer of the Chiron stock of their changes in address so that they would continue receiving important information regarding the stock. Respondents contended that on December 6, 1994, EDJ sent a notice to Wortman informing him of the Chiron buyout which he immediately relayed to Claimants. Wortman further contended that the Claimants accepted the buyout offer, but never mentioned the 500 shares held in their name until January 6, 1995. Respondents maintained that the Claimants were informed to send in the certificate for tender and that they later realized the tender offer had actually expired on January 3, 1995. Respondents further maintained that as a result of the above, they should not be held liable.

RELIEF REQUESTED

Claimants Ralph E. and Pamela W. Myers, requested \$10,000.00 in actual damages.

Respondents Edward D. Jones & Co., and David F. Wortman, requested that the claims of the Claimants be dismissed.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Alan Stamm, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants Ralph E. and Pamela W. Myers, on June 5, 1995, and by Respondent Edward D. Jones & Co., on August 11, 1995, and by Respondent David F. Wortman, on August 1, 1995.

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 the Claimants Ralph E. and Pamela W. Myers, against Respondents Edward D. Jones & Co. and David F. Wortman, are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. All other relief requests are denied.
4. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants shall be retained by the NASD, Inc. The Respondents Edward D. Jones & Co., and David F. Wortman, are liable and shall pay to the Claimants Ralph E. and Pamela W. Myers, \$75.00 as reimbursement of one-half of the filing fee.

AFFIRMATION

I, ALAN STAMM, 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.



Alan Stamm, Esq.

DATE OF DECISION: November 21, 1995