

N.A.S.D. REGULATION AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS REGULATION, INC.

In the Matter of the Arbitration Between

Name of Claimant

Hinkle Contracting Corporation

96-04937

Name of Respondent

J.J.B. Hilliard & W.L. Lyons, Inc.

REPRESENTATION

For claimant Hinkle Contracting Corporation ("claimant") appeared its representative Henry Hinkle.

For respondent J.J.B. Hilliard, W.L. Lyons, Inc. ("respondent") appeared its representative and in-house counsel Ann Wilson, Esq.

CASE INFORMATION

Statement of Claim filed: November 5, 1996.

Claimant's Submission Agreement signed on: November 1, 1996.

Statement of Answer filed by respondent on: December 26, 1996.

Respondent's Submission Agreement signed on: December 20, 1996.

HEARING INFORMATION

Hearing Dates/Sessions: May 7, 1996 - one session

The hearing was conducted at the Hyatt Hotel located at 320 West Jefferson Street in Louisville, Kentucky.

CASE SUMMARY

Claimant alleged that respondent improperly refused to purchase 4,400 shares of Res-Care Incorporated as directed on December 15, 1992. Claimant further alleged that on December 21, 1992, it was notified by respondent that the aforementioned transaction could not be

accomplished because its president, Henry Hinkle, was also a Director of Bourbon Agricultural Bank located in Paris, Kentucky. Claimant also alleged that respondent's excuse for not executing the transaction is invalid because Hinkle is an outside Director of the Bank and therefore rules and regulations pertaining to this trade do not apply. Claimant contended that as a result of the above, it has suffered a loss for which the respondent should be held liable.

Respondent maintained that claimant purchased 4,400 shares of Res-Care Inc. as part of an initial public offering at \$10.00 per share. Respondent further maintained that this stock immediately began selling at a premium price in the secondary market whereby it was classified a hot issue resulting in the cancellation of purchases by persons or entities, including bank directors, who were restricted from purchasing hot issues under NASD Rules. Respondent also maintained that assuming that claimant is correct, it was required to mitigate its damages by purchasing in the secondary market and therefore the damages should not exceed \$12,100.00.

RELIEF REQUESTED

Claimant requested \$20,900.00 in compensatory damages.

Respondent requested that the claims be dismissed in their entirety and that each party pay its respective attorney's fees and costs.

OTHER ISSUES CONSIDERED & DECIDED

The parties 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 NASD Regulation.

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 J.J.B. Hilliard, W.L. Lyons, Inc. be and hereby is liable and shall pay to claimant Hinkle Contracting Corporation \$4,500.00 in compensatory damages.
2. Respondent J.J.B. Hilliard, W.L. Lyons, Inc. be and hereby is liable and shall pay to claimant Hinkle Contracting Corporation simple interest at the legal rate in Kentucky commencing 30 days from the date of the award until paid.
3. The parties shall bear their respective costs and attorney's fees.
4. All other relief requests are denied.

FORUM FEES

Pursuant to Rule 10332(c) of the Code of Arbitration Procedure, the arbitrators have determined that NASD Regulation shall retain the \$100.00 non-refundable filing fee previously deposited by claimant and have assessed the following forum fees:

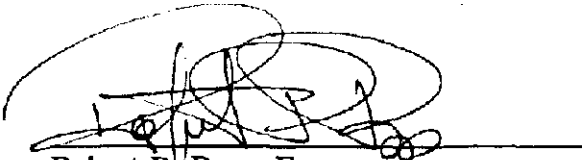
one session x \$400.00	= \$400.00
minus claimant's \$400.00 deposit	= <u>\$400.00</u>
total outstanding	= \$ 0.00

Claimant be and hereby liable for the sum of \$200.00 representing one half of the total amount of forum fees assessed. Claimant previously deposited \$400.00 with NASD Regulation. Therefore, nothing is owed to the NASD by the claimant.

Respondent be and hereby liable for the sum of \$200.00 representing one-half of the total amount of forum fees assessed. Therefore, respondent shall pay to claimant \$200.00 as reimbursement of one-half of the hearing session deposit paid to NASD Regulation.

ARBITRATORS' SIGNATURES

I, Robert P. Ross, Esq., do hereby swear or affirm, that I am the individual described herein, and who executed this instrument which is my oath and award.

A handwritten signature in black ink, appearing to be 'R. P. Ross', written over a horizontal line.

Robert P. Ross, Esq.
Public Chairperson

I, E. Allen Elliott, do hereby swear or affirm, that I am the individual described herein, and who executed this instrument which is my oath and award.

E. Allen Elliott
Public Panelist

I, Phillip Barry Wise, do hereby swear or affirm, that I am the individual described herein, and who executed this instrument which is my oath and award.

Phillip Barry Wise
Industry Panelist

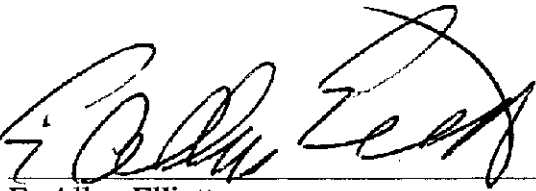
Date of Decision: June 9, 1997

ARBITRATORS' SIGNATURES

I, Robert P. Ross, Esq., do hereby swear or affirm, that I am the individual described herein, and who executed this instrument which is my oath and award.

Robert P. Ross, Esq.
Public Chairperson

I, E. Allen Elliott, do hereby swear or affirm, that I am the individual described herein, and who executed this instrument which is my oath and award.

A handwritten signature in dark ink, appearing to read 'E. Allen Elliott', written over a horizontal line.

E. Allen Elliott
Public Panelist

I, Phillip Barry Wise, do hereby swear or affirm, that I am the individual described herein, and who executed this instrument which is my oath and award.

Phillip Barry Wise
Industry Panelist

Date of Decision: June 9, 1997

ARBITRATORS' SIGNATURES

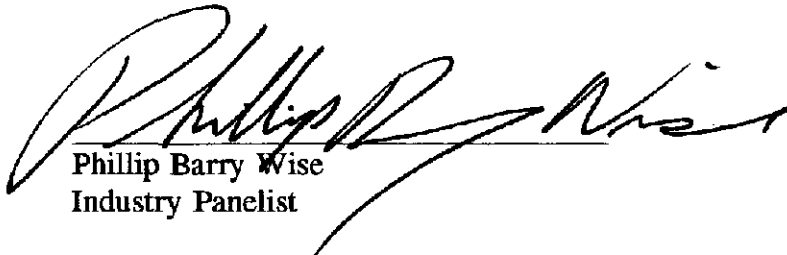
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Robert P. Ross, Esq.
Public Chairperson

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E. Allen Elliott
Public Panelist

I, Phillip Barry Wise, do hereby swear or affirm, that I am the individual described herein, and who executed this instrument which is my oath and award.



Phillip Barry Wise
Industry Panelist

Date of Decision: June 9, 1997