

APPEAL COMMITTEE

**DONOHUE (RESPONDENT) v.
ARMCO INC AND OTHERS (APPELLANTS)**

**PETITION OF THE RESPONDENT TO VARY THE
JUDGMENT OF THE HOUSE OF 13 DECEMBER 2001**

REPORT

Ordered to be printed 21 November 2002

LONDON
£5.00

ORDERS OF REFERENCE, ETC.

DIE JOVIS 13° DECEMBRIS 2001

Donohue (Respondent) v. Armco Inc and others (Appellants)—It was moved by the Lord Bingham of Cornhill, That the 25th Report from the Appellate Committee be agreed to; the motion was agreed to. It was ordered and adjudged that the Order of the Court of Appeal of 29th March 2000 be set aside and that the Order of Mr Justice Aikens of 15th July 1999 be restored, save as to costs, on the giving by the appellants of the undertaking “That they undertake not to enforce against Mr Donohue, Wingfield or CISHL any multiple or punitive damages awarded in the New York proceedings whether awarded pursuant to the RICO statute or common law. For the avoidance of doubt, the above undertaking (i) shall not restrict the Armco companies from seeking to enforce any award made in the New York proceedings for damages which are not multiple or punitive; (ii) shall relate only to enforcement; and (iii) as against any defendant in the New York proceedings other than Mr Donohue, Wingfield or DISHL, shall have no effect whatsoever in respect of the Armco companies pursuing or enforcing any claim or award in the New York proceedings whether for multiple or punitive damages or otherwise.”; that the appellants do abide by that undertaking; and that the question of costs be adjourned *sine die*. [2001] UKHL 64

DIE LUNAE 14° OCTOBRIS 2002

Donohue (Respondent) v. Armco Inc and others (Appellants)—The petition of Roger Thomas Donohue praying that the judgment of the House of 13th December last might be amended was presented and referred to an Appeal Committee.

DIE MERCURII 13° NOVEMBRIS 2002

Appeal Committees—Two Appeal Committees were appointed pursuant to Standing Order.

Lords who attended the Appeal Committee on this petition:

Bingham of Cornhill, L. (*In the Chair*)

Mackay of Clashfern, L.

Nicholls of Birkenhead, L.

Hobhouse of Woodborough, L.

Scott of Foscote, L.

FIFTH REPORT

from the Appeal Committee

21 November 2002

ORDERED TO REPORT

DONOHUE (RESPONDENT) V. ARMCO INC AND OTHERS (APPELLANTS)

1. The Committee have met and have considered the petition of Roger Thomas Donohue praying that the judgment of the House of 13th December last might be amended.

RECOMMENDATION

2. The Committee recommend that the petition be allowed; that the judgment be amended so as to be given in the following terms, agreed by the petitioner and Armco:

That the Order of the Court of Appeal of 29th March 2000 be set aside and that the Order of Mr Justice Aikens of 15th July 1999 be restored, save as to costs (save that paragraph 4 of that order be amended so as to read “The balance of the action be dismissed save for the claim by the Claimant for damages as against (i) the Second and Third Defendants and (ii) the First Defendant in respect of claims asserted by it pursuant to causes of action vested in it as the successor to Armco Financial Services Europe Limited (“AFSEL”) (but not causes of action to which the First Defendant is entitled otherwise than as successor to AFSEL)” on the giving by the appellants of an undertaking in the following terms “That they undertake not to enforce against Mr Donohue, Wingfield or CISHL any multiple or punitive damages awarded in the New York proceedings whether awarded pursuant to the RICO statute or common law”. For the avoidance of doubt, the above undertaking (i) shall not restrict the Armco companies from seeking to enforce any award made in the New York proceedings for damages which are not multiple or punitive; (ii) shall relate only to enforcement; (iii) as against any defendant in the New York proceedings other than Mr Donohue, Wingfield or CISHL, shall have no effect whatsoever in respect of the Armco companies pursuing or enforcing any claim or award in the New York proceedings whether for multiple or punitive damages or otherwise; that the appellants do abide by that undertaking; and that the question of costs be adjourned *sine die*.

and that there be no order as to costs on this petition.