

PACIFIC EXCHANGE, INC.
301 Pine Street
San Francisco, California 94104

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PCX 20010329

In The Matter Of The Arbitration Between:

GUS BOOSALIS,
BOOSALIS OPTIONS, LP

Claimants

PCX CASE No. 00-S027

DECISION

v.

INVESTEC ERNST & COMPANY

Respondents

The undersigned Arbitrators, having read and considered the Claim submitted by Gus Boosalis and Boosalis Options, LP ("Claimant") on October 17, 2000 and the Answer of Investec Ernst & Company ("Respondent") dated December 15, 2000, hereby render the following Decision pursuant to Rule 12 of the Rules of the Board of Governors of the Pacific Exchange:

REPRESENTATION OF PARTIES

Of Claimants: *Gus Boosalis*

Of Respondents: *Gary Scheibner for Investec Ernst & Company*

SUMMARY OF FACTS

Claimant placed an order with Respondent to buy FUJ Oct 35/40 bull spread on September 27, 2000 for a \$5 debit. Apparently, the POETS System did not display the correct strike prices and the order was modified by Respondent to Oct 135/140 and filled at a \$4 7/8 debit. The order was confirmed verbally "at \$4 7/8" to Claimant.

Claimant, thinking he had the correct 35/40 fill, then exercised 20 long Oct 35 calls, creating a long underlying position. Claimant left town for two days and discovered the trade was incorrect the following Monday. He tried to break the trade and Respondent tried to accommodate that request, but was unable to do so because of the assignment.

ISSUES PRESENTED

Should Claimant be reimbursed by Respondent for the faulty execution of the September 27, 2001 trade?

There was no counterclaim.

RELIEF REQUESTED

Claimant asks for \$16,250, the entire loss he sustained in the September 27th trade.

FINDINGS AND DECISION

A. Findings of Fact

After considering the argument and evidence of both the Claimant and Respondent in this matter, the undersigned Arbitrators make the following findings:

Both parties bear responsibility for the improperly exercised trade. Claimant exercised the call and left town for two days and did not discover the error until the following Monday. Respondent modified the ticket to 135/140 when the system did not show the intended 35/40 trade. Respondent also was merging two trade desks at the time and did not have the tape recorder working, which might have cleared the discrepancy earlier.

B. Decision

After considering the arguments and evidence of both the Claimant and Respondent in this matter, the undersigned Arbitrators make the final determination and decision of the issues presented, as set forth below:

The Parties shall split the loss equally.

C. Award:


1. **Monetary damages:** The loss will be shared equally by the parties. Since Claimant mitigated the loss immediately and suffered a \$16,250.00 loss, Respondent shall pay to Claimant \$8,125.00.
2. **Punitive damages:** NONE
3. Each party will bear its own cost of arbitration, except Respondent will reimburse Claimant for his filing fee (\$200.00) and hearing session deposit (\$750.00).
4. The total award to Claimant from Respondent is, therefore, \$9,075.00.

5. Respondent is assessed forum fees in the amount of \$500.00 payable to the Pacific Exchange.


Dated: 3/21/01


Ruth Glick, Esq., Chair

Dated: 3/24/01


Lawrence Curfman, Esq., Public Arbitrator

Dated: 3/27/01


Julianne Thiebaut, Industry Arbitrator