

Pacific Exchange, Inc.
115 Sansome Street
San Francisco, CA 94104

In the Matter of the Arbitration Between:

Mechelina DeMunck

PCX CASE # ~~04-007~~

Claimant

DECISION

04-007

v.

A.G. Edwards & Sons, Inc., George Clohessy

Respondents

The undersigned Arbitrator, having read and considered the Claim submitted by The Claimant and the Answer of Respondents, 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 Claimant: Mechelina DeMunck

Of Respondents: Michael Naccarato, Esq.

SUMMARY OF FACTS

Mrs. DeMunck opened a brokerage account with Respondent AG Edwards in December 2000. Her portfolio included shares of U.S. Bancorp stock. On October 8, 2001, Mrs. DeMunck sold 1430 shares of the stock at \$16.91 a share. The stock thereafter rose in value, and fluctuated in value over the following months, and at one point it fell below that price.

Claimant alleges that she called Mr. Clohessy on October 8, 2001 and asked why the stock was dropping in value. She alleges that Mr. Clohessy told her that AG Edwards had issued a sell for USB, and that in reliance thereon she sold 1430 shares of the stock. She alleges that AG Edwards had at the time of the conference a buy recommendation, not a sell, and that she would have never sold the stock if she had been told about that.

Respondent Clohessy denies that He ever told the Claimant that AG Edwards had a sell recommendation on the stock.

ISSUES PRESENTED

The issue presented for resolution is whether Mr. Clohessy told Mrs. DeMunck that AG Edwards had, on October 8, 2001, a sell recommendation on US Bancorp stock.

RELIEF REQUESTED

Claimant seeks damages of \$20,000.

FINDINGS AND DECISION

Findings of Fact:

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

Claimant sold the stock on an unsolicited basis, and her uncorroborated claim that Mr. Clohesy gave her erroneous information, which caused her to sell, is not substantiated. Claimant did not complain to a superior of Mr. Clohesy at the time of the alleged call, or at any time for years after the alleged incident. Mrs. DeMunck could have bought the stock back at a lower price than her selling price in October, 2001.

DECISION

After considering the argument and evidence of both the claimant and Respondent in this matter, the undersigned arbitrator makes the final determination and decision of the issues presented, as set forth below:

The undersigned arbitrator finds in favor of the Respondents on all issues.

AWARD

Claimant shall take nothing in this arbitration

Respondent shall pay all costs, forum fees, attorneys' fees (its own, as Claimant is in pro per), and any and all costs of this arbitration proceeding.

Dated: _____

3/23/05

