

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Daniel P. Krafka

Claimant

and

PaineWebber, Inc.  
Steve Hill

Respondents

A W A R D

88-01764

SUMMARY

Claimant alleges that on October 15, 1987 he placed an order for five OEX NOV.290 put options at a price of 4 1/8. Claimant also alleges that he instructed Respondent Hill to immediately purchase Five OEX NOV.290 put options when and if the 290 strike price was reached. Claimant also alleges that Hill agreed to abide by this instruction. The strike price was reached on October 16, 1987. The five put options described above were purchased by Respondent on behalf of Claimant on October 21, 1987, causing a net loss of \$21,000.00. The Claimant alleges that the loss was incurred as a result of the Respondents' failure to comply with the Claimant's initial instructions and buy the put options on October 16, 1987.

Respondents Joint Answer denies that Claimant instructed the Respondent Hill to immediately purchase the put options when the price reached 290 on October 16, 1987 but rather discussed such a purchase on October 19, 1987 and determined that the options should be purchased on October 19, 1987 unless communicated otherwise. In error, Respondent Hill placed a sell order. The error was discovered and corrected to a buy order at a price of 46. Respondents credited Claimant's account to reflect the correction. Respondents allege various affirmative defenses.

RELIEF REQUESTED

Claimants request damages in the amount of \$21,000.00 and costs. Respondents request dismissal of the action and costs.

COPY

AWARD

On June 29, 1989 in Omaha, Nebraska, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on May 26, 1988 by Claimant Daniel P. Krafka, on July 26, 1988 by Romaine L. Gardner on behalf of Respondent PaineWebber, Inc. and on July 26, 1988 by Respondent Steve Hill.

The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has decided in full and final resolution of the issues submitted for determination as follows:

1. All claims asserted by Daniel P. Krafka against Steve Hill, shall be dismissed;

2. Each party shall bear their own costs incurred in connection with this proceeding;

3. Respondent PaineWebber, Inc. shall pay to the Claimant the sum of \$59.50 which PaineWebber, Inc. admitted in their Answer was due to the Claimant;

4. Simple interest shall be assessed on the amount at 10% beginning from October 19, 1987 up until the time that it is paid;

5. Pursuant to Section 43(b) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain as forum fees the 400.00 filing fee previously deposited with the NASD by the Claimant. Additionally, Respondent PaineWebber, Inc. shall be assessed an amount of \$400.00 in forum fees. This fee shall be paid directly to the NASD.

By the Panel

Dated: June 29, 1989

/S/ Robert Berkshire, Esq.  
Presiding Chairman

Dated: June 29, 1989

/S/ Wayne S. Rasmussen, Esq.

Dated: June 29, 1989

/S/ James D. Swope

*Dated served  
7-18-89*