

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Tenny J. Ryan

Claimants

vs.

Kennedy, Cabot and Company

Respondent

CASE NO. 88-03357

SUMMARY OF ISSUES

Claimant filed this claim with the NASD on October 1, 1988 and alleged that Respondent failed to execute three sell orders placed at the market on October 20, 1987 and failed to advise Claimant in a timely manner a report of nothing done. Specifically, Claimant alleged that on October 20, 1987 she placed three sell orders, at the market, of 5,000 shares of BRIK, 5,000 shares of DDIX, and 5,000 shares of IMRGA and asked Respondent almost daily, for a report of execution. Claimant further alleged that on October 28, 1987 Respondent reported the execution of the sale of DDIX, and on October 30, 1987 Respondent reported nothing done on the sell orders placed for BRIK or IMRGA causing Claimant to re-enter these sell orders at the market on October 30, 1987.

Respondent maintained that it used its best efforts to enter, process, and report the status of orders on a timely basis to all of its customers and continued to do so during the period in question. Respondent further maintained that the damages alleged were the result of unprecedented market conditions and activity; that it acted strictly as an agent for Claimant on an unsolicited basis and entered the orders as placed; and should not be held strictly liable for orders it accepted from its customers that were not executed during the week of the market crash, October 19, 1987.

DAMAGES AND RELIEF REQUESTED

Claimant requested damages in the amount of \$21,875.00. Respondent requested dismissal of the claim.

DAMAGES AND RELIEF AWARDED

On September 21, 1989 the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant on October 27, 1988 and by Respondent on February 8, 1989. With the consent of the arbitrators, Claimant participated in the hearing by telephone conference. The hearing was held in Los Angeles, California, and lasted one session. The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has determined in full and final resolution of the issues submitted for determination as follows:

1. Respondent Kennedy, Cabot and Company is hereby liable for, and shall pay to, Claimant Jenny J. Ryan the sum of Eight Thousand and One Hundred Dollars and Zero Cents (\$8,100.00).

2. The parties shall each bear their respective costs including attorneys' fees.

3. Pursuant to Section 43 of the National Association of Securities Dealers, Inc. ("NASD") Code of Arbitration Procedure, the NASD shall retain the \$400.00 filing fee previously deposited by the Claimant.

OTHER ISSUES

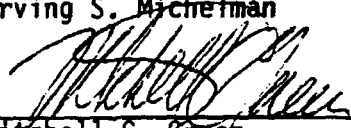
The parties stipulated to the execution and service of this award in counterpart copies.

ARBITRATORS CONCURRING

DATE SERVED: 10/17/89

Herman R. Friedberg

Irving S. Michelman



Mitchell C. Green

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