

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

John David Berryman, M.D.
Donna Lorraine Edgins

Claimants

vs.

Kidder Peabody & Co., Inc.
Harry Lyle

Respondents

CASE #89-00260
AWARD

Case Summary

Claimants allege Respondent failed to sell "Interleuken" stock at a given price of \$9.00 while their broker, Respondent Harry Lyle, was on vacation. Respondents contend that the parties had only agreed to discuss the matter when the price hit \$9.00. Further, that Mr. Lyle had no specific authority to sell the stock.

Relief Requested

Claimants seeks \$14,500.00 plus interest, consequential damages, costs and attorney fees. Respondents seek dismissal plus costs.

Award

On November 30, 1989 the undersigned arbitrator heard the controversy between the parties as set forth in submissions to arbitration signed by Claimants, John David Berryman, M.D. and Donna Lorraine Edgins on January 19, 1989 and by Respondent Kidder Peabody & Co., Inc. on March 10, 1989 and by Respondent Harry Lyle on March 15, 1989. The arbitrator, 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. Respondents, Kidder Peabody & Co., Inc. and Harry Lyle are hereby jointly and severally liable to the Claimants in the amount of Twelve Thousand Eight Hundred Dollars and No Cents (\$12,800.00).
2. The claim for consequential damages is denied.
3. The parties shall each bear their respective costs including attorneys' fees.

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5. Pursuant to Section 43 of the code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$400.00 filing fee previously deposited by the Claimants and Respondent Kidder Peabody & Co., Inc. is assessed \$400.00 in forum costs which shall be made payable to the National Association of Securities Dealers.

Concurring Arbitrator

/s/
William H. Malloy, Jr.

This Day of December 13, 1989