

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Douglas H. Jensen

Claimant

vs.

Kennedy, Cabot & Co.

Respondent

AWARD

CASE NO. 89-01057

Heard Before the Members of the Arbitration Panel:

Jack I. Samet, Esq.

Robert G. Sether

David N. Mahler

SUMMARY OF ISSUES

This case was filed on April 7, 1989. Claimant alleged that Respondent failed to execute a sell order in April 1987 of 110,000 GCA rights. Claimant also alleged that Respondent issued a series of erroneous margin calls and that in October 1987 there was an unauthorized and unjustified sale of the bulk of his stock account by Respondent. Respondent alleged that it acted in good faith, within accepted industry standards and SEC and NYSE rules, and according to the terms of Claimant's signed margin agreement in the handling of his margin account. Respondent alleged that Claimant ignored his duty to mitigate his alleged damages, and made unreasonable damage calculations.

DAMAGES AND RELIEF REQUESTED

On Claimant's first claim, he requested \$1,719.00 plus interest at the appropriate brokers money market rate until paid. With regard to the alleged inappropriate sale of stocks from his account, Claimant requested restoration of his account to include all the same stocks it contained before the sale in October 1987 (or the value of \$51,000-\$52,000), that the margin balance be returned to the value it would have legitimately been at the end of October 1987 without the sales, and for costs of the arbitration. Respondent requested that Claimant take nothing by way of his claim.

DAMAGES AND RELIEF AWARDED

On March 22, 1990, in Los Angeles, California, the arbitrators heard the controversy in two sessions between the parties as set forth in submissions to arbitration signed by Claimant on March 30, 1989 and by Respondent on May 30, 1989. 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 is liable for and shall pay to Claimant the sum of Fifteen Thousand Five Hundred Dollars and No Cents (\$15,500.00).
2. The parties shall each bear their respective costs including attorneys' fees.
3. In accordance with Section 43 of the National Association of Securities Dealers, Inc. ("NASD") Code of Arbitration Procedure:
 - a. the NASD shall retain the \$400.00 filing fee previously deposited by the Claimant as an assessment of forum fees by the arbitrators;
 - b. Respondent is assessed \$600.00 in forum fees to be paid directly to the National Association of Securities Dealers, Inc.; and
 - c. Respondent is liable for and shall reimburse Claimant the \$400.00 filing fee previously paid.

OTHER ISSUES

Claimant made a motion to amend his claim to allow for a recovery in excess of \$50,000.00. The arbitration panel granted said motion.

DATE SERVED: 03/27/90