

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between	x
	x
Carole and Martin Gerstenbluth	x
Claimants	x
	x CASE NO.
vs.	x 89-02284
	x
NK & Co., Ernst & Co., and	x AWARD
First Montauk Securities Corp.	x
	x
Respondents	x
	x

CASE SUMMARY

Claimant Carole Gerstenbluth ("Mrs. Gerstenbluth") alleged that her broker, Martin Gerstenbluth ("Mr. Gerstenbluth"), entered an order for her account to buy 50 OEX July 295 Calls at \$5.125, and put the order on the Chicago Board of Options Book, i.e., "booked" the order. Mrs. Gerstenbluth alleged that due to the negligence of Respondent NK & Co.'s ("NK & Co.") options broker, only 5 of the 50 OEX Call options were purchased, and that as a result the Claimants were damaged.

Respondents NK & Co. and Ernst & Co. ("Ernst") contended that pursuant to a prior agreement between Mr. Gerstenbluth and NK & Co., NK & Co. was authorized to exercise its discretion to "book" Mr. Gerstenbluth's orders with the CBOE order book or to represent the orders in the crowd, depending upon various market conditions. NK & Co. and Ernst & Co. also contended that Mr. Gerstenbluth was negligent in failing to take action in the market after being advised of the partial fill of his client's order.

Respondent First Montauk Securities Corp. ("First Montauk") contended that its employees followed all instructions given to them with regard to the entry of the order at issue, and made a motion to dismiss in which it contended the Claim is totally devoid of any allegations of wrongdoing on the part of First Montauk. In the Claimants' reply to this motion they contended that First Montauk was Mrs. Gerstenbluth's broker and is responsible for all acts of its agent/employee NK & Co..

RELIEF REQUESTED

Claimants Carole and Martin Gerstenbluth requested actual

damages of \$60,187.50, plus interest. Respondents NK & Co. and Ernst & Co. requested dismissal of the Statement of Claim, plus costs and attorneys' fees. Respondent First Montauk Securities Corp. requested dismissal of all claims made against them.

AWARD

On September 14 and November 28, 1990, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by the Claimants Carole and Martin Gerstenbluth on July 27, 1989, by Respondent NK & Co. on April 26, 1990, by Respondent Ernst & Co. on May 1, 1990, and by Respondent First Montauk Securities Corp. on October 20, 1989. The initial claim was filed on August 14, 1989. The hearing was conducted at the offices of the National Association of Securities Dealers, Inc. in New York City, NY, and consisted of three (3) hearing sessions. 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:

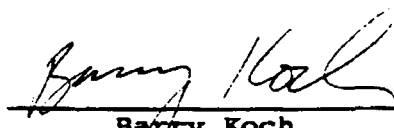
1. At the hearing, all Respondents made a Motion to Dismiss Martin Gerstenbluth as a Claimant in this proceeding; this Motion was granted at the first hearing session.
2. All claims against Respondent First Montauk Securities Corp. be and hereby are dismissed in their entirety.
3. Respondents NK & Co. and Ernst & Co. be and hereby are jointly and severally liable and shall pay to the Claimant Carole Gerstenbluth the sum of Four Thousand Dollars and No Cents (\$4,000.00), inclusive of interest.
4. The parties each shall bear their respective costs, including attorneys' fees.
5. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$500.00 filing fee previously deposited by the Claimant, and the Respondents NK & Co. and Ernst & Co. be and hereby are jointly and severally liable and shall pay to the National Association of Securities Dealers, Inc. the sum of ONE THOUSAND DOLLARS AND NO CENTS(\$1,000.00), as

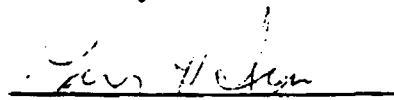
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costs of the three (3) hearing sessions conducted in this matter. In addition, Respondents NK & Co. and Ernst & Co. be and hereby are jointly and severally liable and shall pay to the Claimant Carole Gerstenbluth the sum of Five Hundred Dollars and No Cents (\$500.00), to offset the filing fee previously deposited by the Claimant.

CONCURRING ARBITRATORS


David E. Robbins


Barry Koch


Larry H. Irom

Dated: December 19th ,1990