

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between :
:
Fred W. Falk :
:
:
Claimant :
:
CASE #90-02462
vs. :
:
AWARD
:
Neuberger & Berman Management, Inc. :
:
:
Respondent :

CASE SUMMARY

Fred W. Falk, in a claim filed with the National Association of Securities Dealers, Inc. on September 15, 1990, alleged that Respondent refused to execute a transfer from equity funds to a money fund on the day requested causing a loss of principal. Claimant further states that various line Supervisors confirmed that other transfer orders were executed subsequent to the time when Claimant's order was refused. Mr. Falk submits taped conversations with Respondent's employees to support his claim.

Respondent, Neuberger & Berman Management, Inc. maintained that Claimant did not request the transfer on Friday, October 16, 1987 as he states but called on Monday, October 19, 1987 when he requested that his exchange be processed according to October 16th prices because he had not been able to "get through" on Friday. Respondent submits a tape in support of their position.

Claimant, in a four paragraph reply with five exhibits attached, states that he did call to place the transfer order on Friday, October 16, 1987 and that he was told that his order could not be accepted, but to call back Monday, which he did. He maintains that the accusation of fabrication is ridiculous.

RELIEF REQUESTED

Claimant requests damages totalling Nine Thousand Eight Hundred Seventy-Nine Dollars and Eighty Cents (\$9,879.80).

Respondent requests the costs of defending the claim.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, James C. Krause, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on August 15, 1990 and by the Respondent on November 15, 1990, respectively;

And, that the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. That the Claim of Fred W. Falk be, and hereby is, dismissed in its entirety.
2. The parties shall bear their respective costs including attorney's fees.
3. The One Hundred Fifty Dollars and No Cents (\$150.00) filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc.

AFFIRMATION

I, JAMES C. KRAUSE, ESQ., do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.



Signature of Arbitrator

DATED: 2/28/91

CHECKLIST

Note: Fill out only those sections which apply to this particular case:

- 1) Find for the Claimant
 - a) total amount of the award: \$ _____
 - b) if two or more respondents are liable:
 - (1) joint and severally liable: yes _____ no _____
 - (2) if respondents separately liable list party and the amounts: _____
- 2) Case Dismissed ~~X~~
- 3) Counterclaim of Respondent
 - (a) total amount of award: \$ _____
 - (b) party to receive award: _____
 - (c) counterclaim dismissed: _____
- 4) Punitive Damages
 - a) total amount \$ _____
 - (b) name parties against whom damages are to be assessed and in what amounts: _____
- (c) claim dismissed: _____
- 5) NASD Fee
 - (a) assessed against Claimant ~~X~~
 - (b) assessed against Respondent ~~X~~
- 6) Use this space to expand or clarify any part of the decision above or to indicate other forms of specific relief.

Affirmation

STATE OF

} SS:
}

COUNTY OF

I, James C. Krause, do hereby affirm upon my oath as arbitrator that I am the individual described in and who executed this instrument, which is my oath and award.

January 28, 1991
(DATE)

James C. Krause
(SIGNATURE OF ARBITRATOR)