

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between :

Joseph H. Fulkerson :

Claimant :

vs. :

Brown & Company Securities Corporation :

Respondent

CASE #91-00108
AWARD

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on January 8, 1991, Claimant, Joseph H. Fulkerson, who appeared Pro Se, alleged that Respondent Brown & Company Securities Corporation failed to follow Claimants instructions to cancel a buy order for 10 contracts of OEXIA, that he had placed 20 seconds earlier on September 19, 1990. Claimant further alleged that he relied on Respondent's answer of "I'm cancelling it now," as confirmation that the buy order was cancelled.

Respondent, Brown & Company Securities Corporation by and through, Paul R. Morey, maintained that they transmitted the cancellation to the exchange but learned it was too late to cancel the first order. Respondent further contended that Claimant interpreted the response "I'm cancelling it now" as a confirmation that the order was cancelled and his own failure to verify this resulted in his loss.

RELIEF REQUESTED

Claimant, Joseph H. Fulkerson requested \$1,410.00 in actual damages.

Respondent, Brown & Company Securities Corporation requested the claim be denied.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single


Public Arbitrator, Floyd C. Hale, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on December 13, 1990 and by the Respondent on October 10, 1991.

And, 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. Respondent, Brown & Company Securities Corporation is liable and shall pay to the Claimant, Joseph H. Fulkerson, the sum of \$705.00 in damages.
2. The parties shall bear their respective costs.
3. The \$50.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc. The Respondent, Brown & Company Securities Corporation shall pay \$25.00 to the Claimant as partial reimbursement.

AFFIRMATION

I, FLOYD C. HALE, 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

DATE OF DECISION: 1-13-92

Dated by the NASD, Inc.: January 28, 1992