

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Wyn L. Lydecker

Claimant

vs.

Midkiff Capital Group, Inc.

Respondent

CASE #91-03269
AWARD

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on October 17, 1991, Claimant, Wyn L. Lydecker, by and through John C. Lydecker, Power of Attorney, alleged that he instructed Respondent Midkiff Capital Group, Inc. to place an order to sell \$50,000.00 Auburn Hills 15.875% bonds due 5/1/2020 at a limit price of 77 5/8. Claimant further alleged that Respondent failed to inform him at the time of the limit order that the bonds were selling "flat". Claimant contended that when he discovered the bonds were trading "flat", he advised Respondent to break the trade but was informed it was impossible. Claimant further contended that it was Respondents' responsibility to inform their clients, with positions in Auburn Hills bonds, that the bonds had started to trade "flat". Claimant asserted that it was Respondent's negligence in not alerting him of this fact, prior to his limit order, that caused Claimant to incur losses.

Respondent, Midkiff Capital Group, Inc. by and through its President, Morris E. Midkiff, III, maintained that Claimant contacted them to sell the 50 Auburn Hills Trust Guaranteed Exchangeable Trust Certificates and that Respondent suggested that Claimant place his limit order at 77 5/8. Respondent further maintained that Claimant contacted them when he found out the bonds were trading "flat" and Claimant wanted to kill the trade. Respondent asserted that they had no knowledge that the bonds were trading "flat". Respondent contended that as an accommodation to Claimant they contacted their clearing broker, Bear, Stearns & Co., Inc. to try to break the trade but were unsuccessful. Respondent further contended that as a further accommodation they offered to buy back Claimant's bonds at what it would cost to trade through their clearing broker but Claimant turned down the offer. Respondent argued that Claimants' loss would have only been \$187.50

if Claimant had accepted their offer and that Respondent handled Claimants trade in a fully professional manner.

RELIEF REQUESTED

Claimant, Wyn L. Lydecker requested \$1,675.69 in actual damages.

Respondent, Midkiff Capital Group, Inc. 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, Arnold Flicker, 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 October 11, 1991 and by the Respondent on November 26, 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, Midkiff Capital Group, Inc. is liable and shall pay to the Claimant, Wyn L. Lydecker, the sum of \$412.50 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, Midkiff Capital Group, Inc. shall pay \$50.00 to the Claimant, Wyn L. Lydecker, as reimbursement.

AFFIRMATION

I, **ARNOLD FLICKER, 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.

Arnold Flicker

Signature of Arbitrator

DATE OF DECISION: March 19, 1992

STATE OF: *New York*

SS:

COUNTY OF: *Queens*

On this 9 day of MARCH, 1992, before me personally appeared **Arnold Flicker, Esq.** to me known and known before me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

KATALIN BRUDER
Notary Public, State of New York
No. 41-4962077
Qualified in Queens County
Commission Expires Oct. 14, 1992

Katalin Bruder