

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Francis Ann Edelman

No. 91-03805

Name of Respondents

Kennedy Cabot & Co., Inc., and
Marc Fink

REPRESENTATION OF PARTIES

Claimant, Francis Ann Edelman of Scottsdale, Arizona, appeared pro se.

Respondents, Kennedy Cabot & Co., Inc., and Marc Fink were represented by George H. Kupper, Esq. of Kennedy Cabot & Co., Inc., Beverly Hills, California.

CASE INFORMATION

The Statement of Claim was filed with the NASD on December 3, 1991.

Claimant's Submission Agreement was signed on November 15, 1991 by Frances Ann Edelman.

The Joint Statement of Answer was filed with the NASD by Respondents, Kennedy Cabot & Co., Inc. and Marc Fink on February 25, 1992.

Respondent Kennedy Cabot & Co., Inc.'s Submission Agreement was signed on February 20, 1992 by George Kupper, General Counsel.

Respondent, Marc Fink's Submission Agreement was signed on February 20, 1992 by Marc Fink.

HEARING INFORMATION

The hearing was held on June 4, 1992 for a total of one (1) hearing session.

The hearing location was Scottsdale, Arizona.

CASE SUMMARY

Claimant Francis Ann Edelman, ("Edelman") alleged that Respondent, Marc Fink ("Fink") explained to her what margin was and recommended that she purchase Eastern Airlines Bonds on margin. Edelman alleged that Fink told her the "Eastern Airlines Bonds are very safe because they are secured by equipment. Even if something happens to Eastern Airlines, the bonds are secured by very expensive equipment or cash." Edelman alleged that Fink sold \$5,000.00 worth of her Eastern Airlines Bonds on March 8, 1989, without her knowledge. Edelman alleged that Respondent, Kennedy Cabot & Co., Inc. ("Kennedy Cabot") was the employer of Fink and a discount brokerage committed to taking orders to buy and sell, not offering advice to customers. Edelman alleged that Kennedy Cabot was responsible for the erroneous information she based her trust and funds on, thereby, losing money and suffering a hardship.

Kennedy Cabot and Fink alleged in their Joint Answer that Fink did sell Edelman \$15,000.00 worth of Eastern Airlines Bonds in November of 1988. Fink and Kennedy Cabot told Edelman the day before Eastern Airlines went into bankruptcy to sell the Eastern Airlines Bonds due to the inherent risk. Fink and Kennedy Cabot alleged that Edelman decided only to sell \$5,000.00 worth of the bonds and hold the rest. Fink alleged that he never told Edelman how safe the bonds were. Fink and Kennedy Cabot alleged that Edelman had a history of making speculative investments and she choose not to follow Fink's advice to sell her entire position in Eastern Airlines Bonds.

RELIEF REQUESTED

Edelman requested compensatory damages of \$9,170.77 and punitive damages of \$829.83.

Kennedy Cabot and Fink requested dismissal of the claim and that Edelman be liable for any NASD costs or forum fees.

OTHER ISSUES CONSIDERED AND DECIDED

The parties have agreed that the Award in this matter may be executed by a counterpart copy or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the award while the original remains on file with the NASD.

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. The claim asserted against Kennedy Cabot and Fink by Edelman shall be and is hereby denied and dismissed in its entirety; and,

2. The parties shall each bear their own costs, expenses and fees not otherwise enumerated herein.

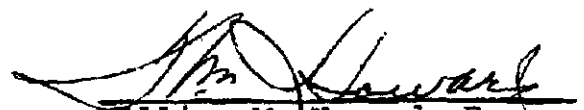
FORUM FEES

Pursuant to Section 43(c) of the NASD Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. ("NASD") shall retain the non-refundable filing fee in the amount of \$ 75.00, and shall retain the hearing session deposit in the amount of \$ 200.00 previously deposited with the NASD by the Claimant. Kennedy Cabot shall directly reimburse Edelman in the amount of \$275.00.

Forum fees were calculated at the rate of \$200.00 per hearing session.

Dated:

June 4, 1992


William M. Howard, Esq.
Presiding Chair
Public Arbitrator

Date Award served by the NASD: 6-10-92