

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

 In the Matter of the Arbitration Between :
 :
 Bert J. Wilson :
 :
 Claimant : CASE #92-00294
 : AWARD
 vs. :
 :
 D.H. Blair & Co., Inc. :
 :
 Respondent :

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on January 28, 1992, Claimant, Bert J. Wilson who appeared Pro Se, alleged that on December 12, 1991, at 3:30 pm, Respondent D.H. Blair & Co., Inc., by and through their Account Executive, Brian Frank, heavily solicited him to purchase Somanetics, at which time, at 3:45 pm, he agreed to transfer \$18,000.00 from his IRA held with Respondent to purchase Somanetics while it was trading at 5-3/16 to 5-3/8, with the high of the day at 5-3/8. Claimant further alleged that on that same day, after speaking with Respondent's Account Executive, he contacted his other broker at Waterhouse Securities to consider buying more Somanetics through them and was quoted the above market rate of 5-3/8, at which time, at 3:55 pm, his Waterhouse broker sold his Key Production Stock and used the proceeds to purchase 750 shares of Somanetics at 5-3/8. Claimant contended that on December 13, 1991 he contacted Respondent to inquire about his Somanetics purchase, at which time, he was advised that Respondent failed to fill his Somanetics purchase on December 12, 1991 at the market and waited until December 13, 1991 to buy at \$6. Claimant further contended that Respondent informed him that, without his knowledge or consent, Respondent put his order in with a 100,000 block and could not get it filled on December 13, 1991, at which time, he purchased 3,000 shares on December 13, 1991 for the total cost of \$18,002.50. Claimant asserted that Respondent's failure to execute the Somanetics purchase on December 12, 1991 at 5-3/8, as promised and subsequently, making the purchase at \$6, caused him to sustain losses.

Respondent, D.H. Blair & Co., Inc. by and through William Badinelli, maintained that on December 12, 1991 Claimant, Bert J. Wilson contacted their Account Executive, Brian Frank at 3:20 pm to inquire about the three securities held in his account at Respondent; one of which was Somanetics ("SMTS"). Respondent further maintained that on this same date Claimant placed an order to purchase Somanetics, to add to his previous position;

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at the then current bid of 5-3/16, at which time, Claimant was aware that his order would be handled in this manner, as each of his prior purchases was, and if he wanted to place a market order he could have done so. Respondent contended that the order was not executed on December 12, 1991 and was put in on December 13, 1991, again at the 5-3/16 bid, at which time, the order was executed at 5-11/16 and marked up to 5/16 for a net price of \$6. Respondent further contended that Claimant did not place a market order with them, but did so at Waterhouse Securities and the 5-3/8 price Claimant refers to is incorrect because the high was actually 5-5/8 and is before the commission, to which the \$6 price he paid at Respondent includes the appropriate markup of 5/16. Respondent asserted that they are a full service firm and do not claim to compete with deep discount brokers on commissions, therefore, they cannot be held liable for Claimant's losses.

RELIEF REQUESTED

Claimant, Bert J. Wilson requested \$1,875.00 in actual damages.

Respondent, D.H. Blair & Co., Inc. requested the claim be dismissed.

AWARD

Pursuant to Section 13 of the national Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Homer J. Henning, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on January 21, 1992 and by the Respondent on March 20, 1992.

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:

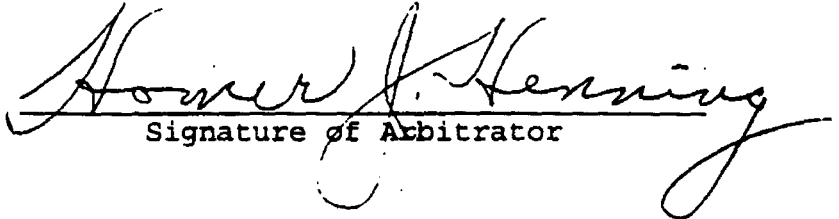
1. Respondent, D.H. Blair & Co., Inc. is liable and shall pay to the Claimant, Bert J. Wilson the sum of \$1,125.00 in damages.
2. The parties shall bear their respective costs.

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3. The \$50.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant, Bert J. Wilson shall be retained by the NASD, Inc. Respondent, D.H. Blair & Co., Inc. is liable and shall pay to the Claimant the sum of \$25.00 as partial reimbursement.

AFFIRMATION

I, HOMER J. HENNING, 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: 6/10/92

DATED BY NASD, INC., JUL 15 1992