

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Eric Waterman

vs.

92-01225

Name of Respondents

Kennedy, Cabot & Company, Inc.  
William Ferrin

REPRESENTATION

For Claimant: Bruce R. Safran, Esq., Sherman Oaks, California

For Respondents: George Kupper, Esq., Kennedy, Cabot & Company, Inc.,  
Beverly Hills, California

CASE INFORMATION

Statement of Claim filed: April 6, 1992

Claimant's Submission Agreement signed on: March 26, 1992

Joint Statement of Answer filed by Respondents: June 4, 1992

Respondents' Submission Agreements signed on: June 3, 1992

HEARING INFORMATION

Prehearing Conference(s) Date(s) Sessions: None

Hearing Date/Sessions: November 3, 1992 (two sessions)

Hearing Location: Los Angeles, California

CASE SUMMARY

Claimant alleged that Respondents negligently, carelessly, and recklessly and in breach of an oral agreement, executed an open order to sell 1,000 shares of PHP International Corp. at \$12.00, good until January 20, 1992, by selling on December 24, 1991 in Claimant's account number 880-71333, 6,000 shares of that stock.

Respondents denied Claimant's allegation and maintained that William Ferrin accurately and correctly took Claimant's open order on December 18, 1991 to sell 6,000 shares of FHP International Corp. at \$12.00 and marked the order ticket, in compliance with Kennedy, Cabot & Company, Inc.'s policy, that the order had been repeated back to Claimant who verified that was the order he had given.

#### RELIEF REQUESTED

Claimant requested:

1. That damages be awarded against Respondents, and each of them, and in Claimant's favor in an amount equal to \$17,500.00; and
2. That attorneys' fees, interest, costs, and disbursements be awarded in Claimant's favor.

Respondents' requested:

1. That all claims be dismissed and that the Claimant shall bear any and all forum fees and related costs of this arbitration hearing.

#### OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart copies 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 originals remain on file with the National Association of Securities Dealers, Inc. (NASD).

#### AWARD

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

1. Respondents are jointly and severally liable for and shall pay to Claimant the sum of \$17,500.00, inclusive of interest and costs.
2. The parties shall each bear their own attorney's fees.

#### OTHER COSTS

None.

**FORUM FEES**

Pursuant to Section 43c of the Code of Arbitration Procedure, the following forum fees are assessed: The NASD shall refund the \$400.00 hearing session deposit previously deposited by the Claimant. Forum fees assessed against:

Respondents, jointly and severally, in the amount of \$800.00, calculated as follows: Two hearing sessions times \$400.00/session.

Fees are payable to the National Association of Securities Dealers, Inc.

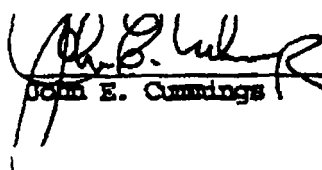
**ARBITRATION PANEL**

**Name**

**Public/Industry**

Public Arbitrator  
Public Arbitrator  
Industry Arbitrator

Signature

  
John E. Cummings

Date of Decision: 11/3/92

Date Served: 12/18/92