

PUBLIC

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Ronald L. and Laura A. Thompson

vs.

92-01679

Name of Respondent

Kennedy, Cabot & Company

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on May 19, 1992, Claimants Ronald L. and Laura A. Thompson, who appeared Pro Se, alleged that Respondent Kennedy, Cabot & Company failed to buy 10 "SPX 410 Call" options as instructed, and instead bought SPX 410 Puts, which caused a loss at having to sell the Puts and a loss at having to buy the Call options at a higher price. The Claimants further alleged that the Respondent failed to notify them that they had been "stopped out" of 10 "OEX April 380 Calls", although they were instructed to notify them by phone, and that they should be compensated for these losses caused by the Respondent.

Respondent Kennedy, Cabot & Company, through it's in-house counsel, George Kupper, Esq., maintained that it's branch office manager repeated the order for Puts back to the Claimants, who agreed to purchase them, and that they were offered two choices in order to settle this error; the first one being \$2,200.00 in damages and the second being commission free trades for 1 year up to \$3,125.00. The Respondent contended that the Claimant agreed to accept the free commissions as full and complete settlement of this matter; and that as of June 12, 1991, Claimants have used \$1,080.00 in free commission trades. The Respondent further maintained that proper procedure was followed in the "OEX April 380 Calls" trade, and that if the Claimants sustained any loss, it was the result of their own actions and not that of the Respondent.

RELIEF REQUESTED

Claimants Ronald L. and Laura A. Thompson requested \$7,500.00 in actual damages.

Respondent Kennedy, Cabot & Company requested that the claims of the Claimant be dismissed.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Herman R. Friedberg, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on May 12, 1992 and by the Respondent on July 10, 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 Kennedy, Cabot & Company is liable and shall pay to the Claimants Ronald L. and Laura A. Thompson \$2,220.00 in actual damages.
2. The parties shall bear their respective costs.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants shall be retained by the NASD, Inc.

AFFIRMATION

I, **HERMAN R. FRIEDBERG, 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.



Signature of Arbitrator

DATE OF DECISION: December 16, 1992