

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Joseph G. Frake

NASD Arbitration
No. 92-02023

Name of Respondent(s)

Kennedy, Cabot & Co., Inc.
Guy Keefer

REPRESENTATION

For Claimant: Carroll R. Melton, Arbitration Consultants, Woodland Hills, California

For Respondent: George Kupper, Esq., Kennedy, Cabot & Co., Inc., Beverly Hills, California

CASE INFORMATION

Statement of Claim filed: June 15, 1992

Claimant's Submission Agreement signed: August 7, 1992

Joint Statement of Answer filed by Respondents: October 28, 1992

Respondent Guy Keefer's Submission Agreement signed: October 7, 1992

Respondent Kennedy, Cabot & Co., Inc. did not submit a properly executed submission agreement but is subject to National Association of Securities Dealers,

Inc. (NASD) jurisdiction in accordance with Section 12 of the Code of Arbitration Procedure.

HEARING INFORMATION

Pre-Hearing Conference: None

Hearing Date/Sessions: April 27, 1993 (one sessions)

Hearing Location: Los Angeles, California

CASE SUMMARY

Regarding the purchase of Cray Computer stock, Claimant alleged that Respondents made an unauthorized trade in Claimant's account by executing a limit order which had expired. Claimant also alleged that Respondents committed fraud by charging to Claimant's account the losses on a trade made for Kennedy, Cabot & Co., Inc.'s own account. Claimant further alleged that as a result of the fraudulent actions of Respondents and their unauthorized trading, Claimant has suffered damages in the amount of \$16,524.50, plus interest on the use of those funds.

Respondents denied Claimant's allegations and alleged that Claimant placed an open order to buy 20,000 shares of Cray Computer. Respondents further alleged that they acted correctly and in a timely manner in executing Claimant's open buy order and asserted that there was no unauthorized trade in Claimant's account nor fraudulent actions by the Respondents.

RELIEF REQUESTED

Claimant requested:

1. Actual damages in the amount of \$16,524.50;
2. Interest at the legal rate of 10% per annum;
3. Costs of this proceeding, including filing fees, disbursements, and representation fees; and
4. Such other and further relief which may seem just and proper.

Respondents requested that all requests for damages, interest, attorney fees

and other costs be dismissed and that any assessment for forum fees be paid by the Claimant.

OTHER ISSUES CONSIDERED & DECIDED

None.

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. All claims by Claimant are dismissed.
2. The parties shall each bear their respective costs including attorney's fees.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following forum fees are assessed: The NASD shall refund \$100.00 of the \$400.00 hearing session deposit previously deposited by the Claimant, and retain the balance of \$300.00 as costs of this proceeding.

ARBITRATOR

Name _____ Public/Industry _____

Michael S. Carona

Public Arbitrator

Concurring Arbitrator's Signature



Michael S. Carona

Date of Decision: _____

4-27-93