

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

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In the Matter of the Arbitration Between :

Peter J. Deutch :

Claimant :

CASE #92-02232
AWARD

vs. :

Shearson Lehman Brothers, Inc. :

Roy Buckingham :

David Bouldin :

Respondents :

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CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on July 7, 1992 Claimant Peter J. Deutch, who appeared Pro Se, alleged that on June 24, 1987 he placed a good until cancel open order with Respondent David Bouldin, broker at Respondent Shearson Lehman Brothers, Inc., to sell his 700 shares of Financial News Network at \$12 7/8, and subsequently, on July 7, 1987 the stock traded above \$12 7/8 on both the NASDAQ and Boston Stock Exchanges. Claimant further alleged that Respondent Shearson Lehman Brothers, Inc. mishandled his order and did not execute it properly. Claimant contended that his case became a "political football" between Respondent Shearson Lehman Brothers, Inc. Corporate office, who were willing to settle and their Lansing office because Respondent Roy Buckingham was still upset that he had to settle on the mishandling of the open purchase order to buy 500 shares of FNN a year earlier, at which time, Respondent Roy Buckingham did not want his branch to be charged for another execution error. Claimant further contended that Respondents', Shearson Lehman Brothers, Inc., David Bouldin and Roy Buckingham actions and inappropriate handling of his account caused him to sustain losses.

Respondents Shearson Lehman Brothers, Inc. and Roy Buckingham by and through their in-house counsel John P. Bevilacqua, Esq., maintained that on June 24, 1987 Claimant Peter J. Deutch requested that Respondent David Bouldin place a "good-till-cancelled" order to sell 700 shares of Financial News Network, Inc. ("FNNI") at \$12 7/8 and Respondent David Bouldin completed the order ticket pursuant to Claimant's request and submitted the order to the wire operator at the EF Hutton branch office in East Lansing, Michigan.

Respondents Shearson Lehman Brothers, Inc. and Roy Buckingham further maintained that on July 7, 1987, FNNI traded at an unusually high volume, presumably due to the fact that Financial News Network was about to announce its 167% increase in revenues for the third quarter of 1987, at which time, the bid never reached the required \$12 7/8 to trigger the execution of Claimant's "good-till-cancelled" order. Respondents Shearson Lehman Brothers, Inc. and Roy Buckingham contended that although Claimant and Respondent David Bouldin inquired as to the execution of the "good-till-cancelled" order, the order was not filled due to the simple fact that FNNI never "hit" the strike bid price of \$12 7/8.

Respondent David Bouldin, who appeared Pro Se, maintained that Claimant Peter J. Deutch called to place a good-till-cancelled order to sell 700 shares of FNNI at \$12 7/8 and on July 7, 1987 the stock traded as high as \$13 1/4, at which time, Respondent David Bouldin immediately challenged the open order requesting a fill on the sell order whereby the response was "stock ahead client not entitled". Respondent David Bouldin further maintained that Respondent Roy Buckingham reported back initially the highest bid-ask was 12 3/4 - 13 1/4 and the stock did not trade high enough to fill the order.

RELIEF REQUESTED

Claimant Peter J. Deutch requested \$9,012.50 in actual damages plus interest from July 7, 1987.

Respondents Shearson Lehman Brothers, Inc. and Roy Buckingham requested the claim be dismissed in their entirety and they be awarded their costs, including attorney's fees.

Respondent David Bouldin 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, Marc L. Ripp, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on July 3, 1992, by the Respondent Shearson Lehman Brothers, Inc. on September 4, 1992, by the Respondent Roy Buckingham on July 9, 1992 and by the Respondent David Bouldin on July 31, 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. The claims of Claimant Peter J. Deutch against Respondents Shearson Lehman Brothers, Inc., Roy Buckingham and David Bouldin are dismissed.
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 Claimant Peter J. Deutch shall be retained by the NASD, Inc.

AFFIRMATION

I, MARC L. RIPP, 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.

Marc L. Ripp, Esq.
Signature of Arbitrator

DATE OF DECISION: November 4, 1992

STATE OF: NEW JERSEY

COUNTY OF: ESSEX

SS:

On this ____ day of _____, 19____, before me personally appeared Marc L. Ripp, Esq. to me known and known before me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

Carol L. Uzzardi

CAROL L. UZZARDI
A NOTARY PUBLIC OF NEW JERSEY
My Commission Expires May 3, 1996