

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Van Keith Collinsworth

93-00280

Name of Respondent

Bull & Bear Securities, Inc.

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CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on January 27, 1993, Claimant Van Keith Collinsworth, who appeared Pro Se, alleged that as of September, 1992, he owned 1,000 shares of TMX stock in an account with Respondent Bull & Bear Securities, Inc. and on September 10, 1992 Claimant sold ID Covered Calls, November Expiration, Strike Price 50 at 1/2 to open. Claimant further alleged that on September 23, 1992 he attempted to close the position whereby the telephone tape recording documents his order as "buying 10 calls, October 50's at 1/16 to close," however; the expiration month in this order was in error because there were no Oct. 50's in his account to close. Claimant contended that this may have been partially his error but the broker did not look at the positions in the account and made the transaction anyway. Claimant further contended that the 10 Oct. 50's then expired since he did not know they were in his account. Claimant asserted that on September 25, 1992, not knowing that the previous position had not closed, he attempted to sell covered calls on the 1,000 shares of TMX, and again asked to sell 10 covered calls, November 45's at 1 1/4 to open, whereby, the broker did not check the account and made the transaction which resulted in an uncovered position and TMX began to rally almost immediately. Claimant further asserted that he did not realize that his uncovered position existed in his account until he received his October Statement showing 20 calls open in TMX, whereby, he called the telephone recording notifying Respondent his statement showed 10 extra calls and it was urgent to find out what the problem was. Claimant argued that his call was not returned, so he called near the end of the trading day and was told that the computer was down so they were unable to locate the problem. Claimant further argued that finally the problem was located and since his account was not approved for uncovered call writing, the supervisor required Claimant to close one of the two positions by November 4, whereby on November 10, Claimant closed the 10 Nov 45 calls at 7 3/4 and at

expiration on November 20, Claimant's 1,000 shares of TMX were exercised. Claimant further alleged that the two option transactions with Respondent resulted in a loss to his account and the eventual exercise of his securities, whereby the Respondent by and through their broker did not look at the positions in Claimant's account in either case before executing the trades.

Respondent Bull & Bear Securities, Inc. by and through their in-house counsel Thomas B. Winmill, Esq., maintained that on four separate occasions the full nature of all particulars of the Oct. 50's buy was provided by them to Claimant Van Keith Collinsworth and at no time did Claimant object to the September 23 trade. Respondent further maintained that trades could have been implemented to correct the matter with no material loss as late as October 12, 1992. Respondent contended that the injury Claimant alleged occurred apparently as a result of an option exercised almost two months after Claimant's erroneous order.

#### **RELIEF REQUESTED**

Claimant Van Keith Collinsworth requested \$3,625.00 in actual damages.

Respondent Bull & Bear Securities, Inc. requested the claim be dismissed with prejudice and they be awarded attorney's fees.

#### **AWARD**

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Harvey C. Flodin, 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 January 19, 1993 and by the Respondent on March 19, 1993.

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 claim of Claimant Van Keith Collinsworth against Respondent Bull & Bear Securities is dismissed.
2. The parties shall bear their respective costs, including attorney's fees.
3. The \$125.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Van Keith Collinsworth shall be retained by the NASD, Inc.

**AFFIRMATION**

I, **HARVEY C. FLODIN, 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.

A handwritten signature in cursive script, reading "Harvey C. Flodin", is written over a horizontal line.

Signature of Arbitrator

DATE OF DECISION: June 10, 1993