

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Kidder, Peabody & Co., Inc.

93-00680

Name of Respondents

Knowledge Services, D Group, Inc., and Douglas Moga

REPRESENTATION OF PARTIES

For Claimants at the hearing: David Rivera, Esq. of Kidder, Peabody & Co., Inc., New York, New York.

For Respondents at the hearing: Douglas Moga, Pro Se.

CASE INFORMATION

Statement of Claim filed: February 23, 1993. Claimants' Submission Agreement signed on: February 22, 1993.

Joint Statement of Answer/Counterclaim filed by Respondents on: June 25, 1993. Respondent's Submission Agreement signed on: July 30, 1993.

HEARING INFORMATION

Hearing dates/sessions: January 6, 1994 for two (2) sessions;
January 7, 1994 for two (2) sessions.

Hearing Location: Minneapolis, Minnesota.

CASE SUMMARY

Claimant Kidder, Peabody & Company, Inc. ("Kidder") alleged that Respondents Knowledge Services, Inc., D Group, Inc. and Douglas Moga ("Respondents") have failed to pay a debit balance in their account with Kidder. More specifically, Kidder alleged that respondents sold 41,000 shares of Microsoft Corporation stock through Kidder. Kidder alleged that Respondents stated they had sufficient Microsoft shares with other brokerage firms to cover their position. Kidder alleged that despite these representations, respondents failed to deliver 23,000

of the 41,000 shares that had been sold on their behalf. Kidder alleged that in order to cover the respondents' position, Kidder purchased 23,000 shares of Microsoft stock which had increased in price and created a debit balance in respondent's account.

Respondents, in their answer and counterclaim alleged that they are not in default because they did not sign a Customer Equity Account agreement. More specifically, Respondents alleged that Kidder produced an Options Agreement in which there were never any options trades done, and failed to produce the correct Customer Equity Account Agreement. In their counterclaim, respondents alleged that Kidder failed to supervise its registered representative in which he engaged in violations of Exchange rules by soliciting improper short sales of stock, failing to identify the trades as short sales on the trade tickets, and soliciting the front-running of institutional orders.

Kidder, in its response to the counterclaim, alleged that the counterclaim is an attempt to confuse the issues and the liability of Respondents debt to Kidder.

RELIEF REQUESTED

Claimant requested damages in the amount of \$316,875.00 plus interest, costs and disbursements. Claimant also requested that the counterclaim be dismissed in its entirety.

Respondents requested that the Statement of Claim be dismissed. Respondents also requested an award of \$890,730.07 for their counterclaim.

OTHER ISSUES CONSIDERED & DECIDED

The parties present at the hearing have agreed that the Award in this matter may be executed by 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 original remains on file with the 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 Knowledge Services, Inc., D Group and Douglas Moga shall be and hereby are jointly and severally liable for, and shall pay to the Claimant, Kidder Peabody & Co., Inc., the sum of Three Hundred Sixteen Thousand Eight Hundred Seventy Five dollars (\$316,875.00);

2. The Claimant, Kidder Peabody & Co., Inc.'s request for interest is denied;

Counterclaim

3. Respondents counterclaim is denied in its entirety;

4. Each of the parties shall bear their own costs and expensed incurred, other than those specifically set forth under Forum Fees below.

FORUM FEES

Pursuant to Section 44(c) of the NASD Code of Arbitration Procedure, the following forum fees are assessed:

4 hearing sessions X \$750.00 = \$3000.00

Pursuant to Section 44(c) of the Code of Arbitration, the NASD shall retain the nonrefundable filing fee in the amount of \$500, and shall retain the hearing session deposit in the amount of \$750 previously paid to the NASD by the Claimant.

Additional forum fees in the amount of \$2250 are assessed, jointly and severally, against Respondents Knowledge Services, D Group, Inc. and Douglas Moga. Respondents, Knowledge Services, D Group, Inc. and Douglas Moga, jointly and severally, shall also pay to the NASD the amount of \$200 which represents the nonrefundable filing fee for their counterclaim.

Any additional fees are payable to the National Association of Securities Dealers, Inc.

By The Arbitration Panel:

Dated:

3-3-94

s/s Douglas D. McFarland, Esq.
Douglas D. McFarland, Esq.
Presiding, Public Arbitrator

3-2-94

s/s Ronald M. Otten, Sr., Esq.
Ronald M. Otten, Sr., Esq.
Public Arbitrator

3-3-94

s/s Jacque E. Foust
Jacque E. Foust
Industry Arbitrator

Date Award Served By The NASD: 3-3-94