

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Ralph E. Innis

93-01559

Name of Respondents

Robert Thomas Securities, Inc.
Chester B. Marcus

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on April 20, 1993, Claimant Ralph E. Innis, who appeared Pro Se, alleged that he called his broker, Respondent Chester B. Marcus, on March 17, 1993 at Respondent Robert Thomas Securities, Inc., and told him that he wanted to buy 10 Intel March 120 put options. Claimant further alleged that he inquired how much they were, whereby Respondent Chester B. Marcus told him 1 3/16, at which time, Claimant told Respondent Chester B. Marcus to buy them and Respondent Chester B. Marcus told Claimant that "he could do that for him". Claimant contended that when he called back, he was informed that he bought 10 Intel March 120 call options at 1 3/16, not 10 Intel March 120 put options as he ordered. Claimant further contended that when he went to Respondent Robert Thomas Securities office, Respondent Chester B. Marcus sprung a commissions deal whereby Claimant would get a discount on future commissions that would add up to about \$50.00. Claimant asserted that Respondents owed Claimant \$5,500.00 because the puts would have cost Claimant \$2,000.00 and by Friday, the stock moved to 113, whereby, Claimant would have gotten \$6,500.00 for the securities.

Respondents Robert Thomas Securities, Inc. and Chester B. Marcus by and through their in-house counsel John N. Critchlow, Esq., maintained that Claimant Ralph E. Innis is a trader in Options Contracts, who contacted Respondent Chester B. Marcus on March 17, 1993 at about 9:30 a.m. and requested a quote on the price of Intel stock, which Respondent Chester B. Marcus supplied, then requested a quote on Intel March 120 calls, whereby Respondent Chester B. Marcus told Claimant the last trades in calls on March 16 was at 1 3/8. Respondents further maintained that Claimant called back at 10:35 a.m. and again requested the quotes on Intel stock

and Intel March 120 calls, whereby, Claimant put in an order to buy 10 Intel March 120 calls at the market. Respondents contended that, as is Respondent Chester B. Marcus' practice, he read back the order to Claimant and the trade was executed at 10:51 a.m. at a price of 1 3/16. Respondents further contended that Respondent Chester B. Marcus then received confirmation that the trade has been executed, and called Claimant at his home but there was no answer. Respondents asserted that Claimant called Respondent Chester B. Marcus' office at 12:30 p.m. and informed Respondent Chester B. Marcus' assistant that he wanted to purchase put options not call options. Respondents further asserted that Claimant made no attempt to liquidate the "erroneously" purchased call options and the next morning Respondent Chester B. Marcus called Claimant to advise him to sell his call options while they still had some value whereby Claimant gave an order to sell the calls at a limit price of 1/2 for the day. Respondents further maintained that later that day, Claimant changed his limit order from 1/2 to 1/4 and at 10:40 a.m. on March 18, 1993, 5 calls were sold at 1/4 and 5 were sold at 5/16. Respondents further contended that a recapitalization of settlement discussions are not admissible, and the discussions were a result of Respondent Chester B. Marcus feeling sorry for Claimant whereby to try to maintained good relations and not as a concession of responsibility. Respondents further asserted that Claimant's claim should be dismissed because all the facts surrounding the transaction which are independent of either Respondent Chester B. Marcus' or Claimants' credibility, support Respondent Chester B. Marcus' description of the transaction.

RELIEF REQUESTED

Claimant Ralph E. Innis requested \$5,500.00 in actual damages.

Respondents Robert Thomas Securities, Inc. and Chester B. Marcus 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, Simon J. Tager, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on April 8, 1993, by the Respondent Robert Thomas Securities, Inc. on June 18, 1993 and by Respondent Chester B. Marcus on June 21, 1993.

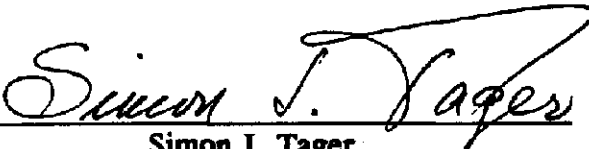
And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondents Robert Thomas Securities, Inc. and Chester B. Marcus are jointly and severally liable and shall pay to the Claimant Ralph E. Innis the sum of \$1,000.00 in 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 Claimant Ralph E. Innis shall be retained by the NASD, Inc.

AFFIRMATION

I, **SIMON J. TAGER**, 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.


Simon J. Tager

DATE OF DECISION: September 30, 1993