

**NATIONAL ASSOCIATION OF SECURITIES DEALERS
AWARD**

In the Matter of the Arbitration Between

RANDY DALE

Claimants

v.

NASD No. 93-2634

KENNEDY, CABOT & CO.

Respondents

Representation

For Claimant: Randy Dale

For Respondent: George Kupper, Esq. of Kennedy, Cabot & Co.

Case Information

Statement of Claim filed: July 7, 1993

Claimant's Submission Agreement signed: June 30, 1993

Statement of Answer filed on: September 1, 1993

Respondent's Submission Agreement signed on: August 31, 1993

Hearing Information

Prehearing Conference Date(s)/Sessions: None

Hearing Date/Sessions: April 14, 1994

Hearing Location: Los Angeles, CA

Case Summary

Claimant alleged:

On June 18, 1993 Claimant placed an order with Respondent to sell 500 shares of Snapple at 43 3/4. He called back to confirm and was told 500 shares were sold at 39. Claimant disputed the confirmation and made a demand for correction of the \$2,375 error. The tape of the recorded order confirms that the bid was 43 3/4 at the time of the order.

Respondent alleged:

On June 18, 1993, Claimant asked for a quote on Snapple and was told it was bidding 43 3/4 and asking 44, at which time Claimant placed an order to sell 500 shares. Claimant was specifically asked if he wanted to put a limit price on the order or if he wanted to sell at the market, to which he replied, sell at the market. The order was then repeated back to Claimant.

The order was wired in within five minutes of when it was received, which is within industry standards for a timely execution. The order was executed at 39. The time and sales hard copy clearly shows Claimant would not be entitled to an execution price of 43 3/4 as claimed and that 39 was a fair and proper price.

Relief Requested

Claimant requested compensatory damages of \$2,375.

Other Issues Considered and Decided

The parties have agreed that the Award in this matter may be executed in 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 originals remain 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. Respondent is liable for and shall pay claimant \$625.55;
2. The parties shall each bear their respective attorney's fees;

3. The parties shall each bear their respective costs.

Other Costs

None.

Forum Fees

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following forum fees are assessed: The National Association of Securities Dealers, Inc., shall retain the \$25.00 hearing session deposit previously paid by the claimant. Forum fees are assessed against:

Respondent for \$12.50, to be paid directly to the Claimant,

calculated as follows: one hearing sessions at \$25/hearing session, equals \$25, to be divided equally by the parties. Because Claimant has already paid \$25 as a hearing deposit, he is to be paid \$12.50 directly by Respondent for Respondent's share of forum fees.

Arbitration Panel

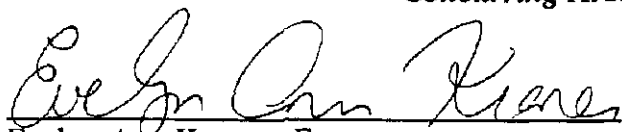
Name

Public/Industry

Evelyn Ann Kramer

Public

Concurring Arbitrator's Signature


Evelyn Ann Kramer, Esq.

Rec'd and Served 5/11/94 ***Date of Decision:***