

**NATIONAL ASSOCIATION OF SECURITIES DEALERS  
AWARD**

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In the Matter of the Arbitration Between

William W. Phelps, III

Claimant

v.

NASD No. 93-2877

Kennedy , Cabot & Co., Rob Forker  
and Gruntal & Co.

Respondents

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**Representation**

For Claimant: William W. Phelps

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

**Case Information**

Statement of Claim filed: July 26, 1993

Claimant's Submission Agreement signed: July 20, 1993

Statement of Answer filed on: September 7, 1993

Respondent's Submission Agreement signed on: Kennedy, Cabot & Co. - September 7, 1993,  
Robert Forker - August 18, 1993

**Hearing Information**

Prehearing Conference Date(s)/Sessions: March 3, 1994/one

Hearing Date/Sessions: March 29, 1994/one

Hearing Location: Los Angeles, CA

### **Case Summary**

Claimant alleged:

Failure to properly execute trade on Merck. On June 16, 1973, Claimant bought 1000 Merck at 37 7/8. On June 17, he put in an order to sell 1000 Merck at 38 7/8. Later that day Claimant received a message that he had received a fill on his Merck order at 38 7/8. Claimant believed he had an executed order until he called Kennedy Cabot on June 22, when they told him the order had not been filled.

Respondents alleged:

Claimant's order was placed on June 17, 1993 at 8:17 a.m. and entered at 8:17 a.m. P.S.T. on the New York Stock Exchange. An examination of the time and sales shows that Claimant was not entitled to his sell price at 38 7/8 on June 17.

### **Relief Requested**

Claimant requested:

1. Compensatory damages of \$4,127;
2. Interest;
3. Costs.

### **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. All claims are denied;
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(f) of the Code of Arbitration Procedure, the following forum fees are assessed: The National Association of Securities Dealers, Inc., shall refund the \$100 hearing session deposit previously paid by the claimant. Forum fees are assessed against:

Respondent Kennedy Cabot and Co. for \$200

calculated as follows: one prehearing sessions at \$100/prehearing session, plus one hearing sessions at \$100/hearing session, equals \$200.

Fees are payable to the National Association of Securities Dealers, Inc.

**Arbitration Panel**

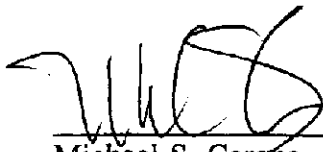
**Name**

**Public/Industry**

Michael S. Carona

Public

**Concurring Arbitrator's Signatures**

  
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Michael S. Carona

Date of Decision:

4-30-94

Received & Served 5/11/94