

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Mark Balakhane

93-04429

Name of Respondents

K. Aufhauser and Company, Inc.

REPRESENTATION

Claimant Mark Balakhane ("Claimant") appeared pro se.

For Respondent K. Aufhauser and Company, Inc. appeared R. Keith Aufhauser, President of K. Aufhauser and Company, Inc.

CASE INFORMATION

Statement of Claim filed: January 1, 1994.

Claimant's Submission Agreement signed on: October 12, 1993.

Statement of Answer filed: March 11, 1994.

Respondent's Submission Agreement signed on: March 2, 1994.

HEARING INFORMATION

Hearing Date/Sessions: September 29, 1994 - One Session

The hearing was held at the National Association of Securities Dealers, Inc.'s offices located in New York City, New York.

CASE SUMMARY

Claimant alleged that on July 7, 1993 he called Respondent to place an order for Homestake Gold of Australia ("Homestake Gold") common stock to be purchased at market. Claimant further alleged that at the time of his order the stock was trading at \$2.36 Australian dollars or \$1.55 U.S. dollars. Claimant stated that the broker purchased 16,470 shares of Homestake Gold at \$1.70 a share. Finally, Claimant alleged that this price was too high and that the stock should have been purchased at \$1.55 a share.

Respondent maintained that Claimant inquired as to the market in Homestake Gold at 10:57 AM New York time and at that time the market in Sydney was closed. Respondent further maintained that Claimant instructed the broker to buy at the market in New York promptly after Claimant's phone call and that Claimant did not instruct the broker to wait until the market opened in Sydney.

In addition, Respondent maintained that their duty was to execute Claimant's order through the dealer that gave the best execution price, which in this case was \$1.70. Respondent further maintained that Claimant was made aware of the difference between the bid and the ask price.

RELIEF REQUESTED

Claimants requested damages in the amount of \$2,470.50 plus costs in the amount of \$150.00.

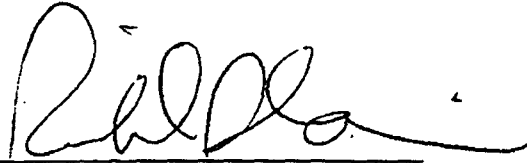
Respondent requested that the Statement of Claim be dismissed in its entirety.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. All claims against the Respondent be and hereby are dismissed in their entirety.
2. Each party shall bear their respective costs, except that Respondent is liable and shall pay \$75.00 to the Claimant to reimburse the Claimant for a portion of the fees paid to the NASD by the Claimant.

ARBITRATOR'S SIGNATURE

A handwritten signature in black ink, appearing to read 'Richard Slavin', written over a horizontal line.

Richard Slavin, Esq.
Public Arbitrator

Date of Decision: December 7, 1994

STATE OF: CONNECTICUT

COUNTY OF: FFLD. ss: Bridgeport

On this 5th day Dec, 1994, before me personally appeared **Richard Slavin, Esq.** known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.

A handwritten signature in cursive script, reading "Doreen E. Blewett", is written over a horizontal line. The signature is enclosed in a large, faint circular mark on the left side.

Doreen E. Blewett
Notary Public
My Commission Expires 3/31/95