

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Marquez Knolls, Inc.

94-00031

Name of Respondents

Kennedy, Cabot & Company
Marquis Quetant
Ken Mount

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on January 4, 1994, Claimant Marquez Knolls, Inc., through its representatives Gene Lachman & Ralph Yarro, alleged that Respondents Kennedy, Cabot & Company, Marquis Quetant, Ken Mount made an error, when they sold 500 shares of Sears Roebuck & Co. stock instead of 500 shares of Sears Roebuck & Co. PFD Preferred. The Claimant further alleged that although they believed the error was corrected, and the Preferred shares were sold, when they finally received the funds from the sale they were short the amount they should have gotten from the sale of the Sears Roebuck & Co. PFD stock. Claimant Marques Knolls, Inc. contended that the Respondents have failed to correct their error, and that, therefore they should be held liable to the Claimant for the amount owed to it.

Respondents Kennedy, Cabot & Company, Marquis Quetant & Ken Mount, in a Joint Statement of Answer, through George Kupper of the firm, maintained that they acted in good faith towards the Claimant, and that the Claimant is seeking total absolution from any responsibility for its actions and seeks to impose 100% liability on Respondents. The Respondents also maintained that the Claimant, through its representative, failed to identify the Sears shares as being Preferred stock and that the acts of the Claimant directly contributed to the trading error. The Respondents contended that because it values the Claimant's business, they offered to absorb one-half of the loss, but that they cannot be held liable for the entire amount based upon the facts and the contributory negligence of the Claimant.

RELIEF REQUESTED

Claimant Marquez Knolls, Inc. requested \$3,355.06 in actual damages, plus interest.

Respondents Kennedy, Cabot & Company, Marquis Quetant and Ken Mount requested that their liability and award be limited to 50% of the trading loss, and that no other fees, costs or interest be imposed.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, William R. Newsome, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on January 26, 1994, by the Respondent on February 28, 1994, by Respondent Marquis Quetant on March 1, 1994 and by Respondent Kennedy, Cabot & Company on March 14, 1994.

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 Kennedy, Cabot and Company and Marquis Quetant are jointly and severally liable and shall pay to Claimant Marquez Knolls, Inc. \$3,355.06 in actual damages.
2. The claims of the Claimant Marquez Knolls, Inc. against Respondent Ken Mount are dismissed in their entirety.
3. Respondents Kennedy, Cabot and Company and Marquis Quetant are jointly and severally liable and shall pay to Claimant Marquez Knolls, Inc. simple interest at the rate of 8% per annum from July 8, 1993 to the date of payment of the award.
4. The parties shall bear their respective costs.
5. The \$125.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc. Respondents Kennedy, Cabot and Company and Marquis Quetant are jointly and severally liable and shall pay \$125.00 to the Claimant as reimbursement of the filing fee.

AFFIRMATION

I, **WILLIAM R. NEWSOME, ESQ.**, 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.

A handwritten signature in cursive script, reading "William R. Newsome", is written over a horizontal line.

Signature of Arbitrator

DATE OF DECISION: August 8, 1994