

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Vladimir Kagalovsky

94-01994

Name of Respondent

Wall Street Equities, Inc.

REPRESENTATION

Claimant Vladimir Kagalovsky ("Claimant") appeared pro se.

For Respondent Wall Street Equities, Inc. ("Respondent") appeared Ronald E. Berti, the Secretary/Treasurer of Wall Street Equities, Inc. located in New York, New York.

CASE INFORMATION

Statement of Claim filed: May 24, 1994.

Claimant's Submission Agreement signed on: May 24, 1994.

Respondent's Statement of Answer filed: September 21, 1994.

Respondent's Submission Agreement signed on: September 21, 1994.

HEARING INFORMATION

Hearing Date/Sessions: July 6, 1995 - One Session

The hearing was held at the offices of the NASD, Inc. located in New York, New York.

CASE SUMMARY

Claimant alleged that on March 24, 1994 he placed an order to purchase one hundred shares of Florida West Air Inc. ("Florida West") with Respondent, but that Respondent by mistake purchased one thousand shares. Claimant further alleged that he contacted his broker on March

28, 1994 about the error, but that the error was not corrected.

Claimant alleged that because Respondent would not correct the error, he sold the one thousand shares of Florida West on May 18, 1994 and, as a result, he incurred an estimated loss of \$9,026.00.

Respondent maintained that there was no error involved in the transaction. Respondent further maintained that, on the day Claimant purchased the shares of Florida West, he also executed several other trades. Respondent asserted that, because there were several transactions, Claimant was notified of his account balance at least six times that day, but that he never complained of a possible error. Respondent further asserted that the error would have been easily discernable to Claimant because there would have been a large difference in the account balance.

Respondent denied that Claimant contacted Respondent on March 28, 1994 to complain of an error. Respondent further maintained that, if Claimant had notified Respondent, on March 28, 1994, of an error, then Respondent could have easily corrected the error because the trade was not settled until March 31, 1994.

Respondent maintained that it had no incentive to sell Claimant one thousand shares as opposed to one hundred shares since, as a discount brokerage firm, the commission Respondent would receive was the same. Respondent further maintained that Claimant continued to conduct business with Respondent in the months following the alleged error and that Claimant was attempting to make Respondent an insurer for his losses.

RELIEF REQUESTED

Claimant requested \$9,026.00 in estimated damages.

Respondent requested that the Statement of Claim be dismissed in its entirety and that all forum fees be assessed against Claimant.

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 Respondent be and hereby are dismissed in their entirety.
2. Each party shall bear their respective costs, including attorneys' fees.
3. All other claims are hereby denied.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the arbitrator has determined that the NASD shall retain the \$75.00 non-refundable filing fee and has assessed the following forum fees:

1 hearing session x \$200.00 = \$200.00

Forum fees assessed against:

Claimant be and hereby is liable for the sum of \$200.00 representing the total amount of forum fees assessed. Claimant previously paid a hearing session deposit of \$200.00 to the NASD, which shall be applied toward the forum fees assessed. Therefore nothing is owed to the NASD by the Claimant.

ARBITRATOR'S SIGNATURE



Robert Pinson, Esq.
Public Arbitrator

I, Robert Pinson, Esq., do hereby affirm that this is my decision in the above-captioned matter.



Date of decision: August 2, 1995