

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant(s)

Stephen G. Eisen

94-02125

Name of Respondent(s)

Michael T. Shuttlesworth  
Johnny Garrison

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CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on June 7, 1994, Claimant Stephen G. Eisen ("Eisen"), who appeared Pro Se, alleged that Respondents gave him incorrect margin and commission information that Claimant relied on to open an account and make options trades with Respondents. Claimant further alleged that in speaking with Respondent Michael T. Shuttlesworth ("Shuttlesworth"), he explained exactly what he was looking for, namely, a place to execute 10 OEX contracts with low commissions and exchange minimum margin requirements. Claimant further alleged that Shuttlesworth quoted to him certain commission rates for OEX contracts and, satisfied that these rates were fair and that Shuttlesworth understood the parameters under which they would be doing business, he opened an account with Shuttlesworth with a \$2,000 deposit. Claimant contended that Respondent Johnny Garrison ("Garrison") was Shuttlesworth's assistant and that Shuttlesworth told Claimant that he could execute trades with Garrison. Claimant alleged that on August 20, 1993, he called Shuttlesworth to execute a trade and spoke with Garrison, and that he gave instructions to Garrison to execute a spread trade, selling 10 September 415 OEX call contracts and buying 10 September 420 OEX call contracts for a credit of 4 points. Claimant alleged that Garrison repeated Claimant's instructions back to him, and that after the market closed that day, Garrison called him to say that the order had been filled at the market for a spread of 3 1/4 points and not the 4 he specified. Claimant alleged that Garrison, realizing his mistake, offered to break the trade, but that in the spirit of developing a relationship with Respondents, Claimant decided to keep the trade. Claimant contended that on August 24, 1993, Garrison called Claimant to inform him that he owed a margin call of

\$5,000 and if he did not meet the margin that he would be sold out of his position the following day, and further that Shuttlesworth did not return his phone calls until August 26, 1993, when Shuttlesworth informed him that his position was in fact sold out at a spread of 5 3/8 points. Claimant asserted that Respondents charged him almost double the commission rate that Shuttlesworth initially quoted him. Finally, Claimant contended that the Respondents overstated their understanding of options trading, (Claimant maintained that Shuttlesworth is not a Registered Options Principal), and that Claimant should not have to pay for the mistakes that Respondents made in his account, therefore Respondents Shuttlesworth and Garrison should be held liable in this matter.

Respondent Michael T. Shuttlesworth, who appeared Pro Se, maintained that he promised Claimant a 30% to 40% discount on his options trades, which is what Eisen received on all his trades. Respondent Shuttlesworth also maintained that when Claimant refused to pay his margin call, he covered Claimant's position at a cost of \$645.27 to Shuttlesworth, and that he did return Claimant's phone calls and that he tried to call Eisen regarding the actions he was taking in the account. Shuttlesworth further maintained that when he finally spoke to Eisen on August 26, Claimant demanded his initial investment of \$2,000 back, at which time Shuttlesworth directed Claimant to a Mr. Gregg Fitzpatrick in Shuttlesworth's compliance office. Finally, Shuttlesworth maintained that he did everything he could to accommodate Eisen and alleged that the real reason Eisen was dissatisfied is because the market moved against him.

Respondent Garrison, who appeared Pro Se, maintained that his only relationship to this case is that he entered Eisen's order. Garrison also maintained that it was his understanding that he should execute Claimant's orders at the market spread, and that when Eisen called to complain that the spread was not the 4 points he allegedly said he wanted, he offered to break the trade. Respondent Garrison maintained that Eisen declined this offer and that the only other time Garrison spoke to Eisen was on the margin calls. Respondent Garrison contended that the Claim centers around the giving of allegedly incorrect margin and commission information by Shuttlesworth, and that there could be no problems arising from Garrison's conduct given his limited involvement with the account.

**RELIEF REQUESTED**

Claimant Stephen G. Eisen requested a reimbursement of his original \$2,000.00 investment and a crediting of the account debit balance of \$647.44 to his account.

Respondent Michael T. Shuttlesworth requested the the claims of the Claimant be dismissed and he be awarded \$648.07, representing the debit balance in Claimant Eisen's account.

Respondent Johnny Garrison requested that the claims of the Claimant be dismissed.

**AWARD**

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Michael A. Caldwell, Esq., was selected to review the matter in controversy between the parties set forth in submissions to arbitration signed by the Claimant on May 31, 1994, by Respondent Shuttlesworth on October 12, 1994, and by Respondent Garrison on September 26, 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. The claims of the Claimant Stephen G. Eisen against Respondents Michael T. Shuttlesworth and Johnny Garrison are dismissed in their entirety.
2. Respondent Shuttlesworth's request for \$648.07 is also denied.
3. The parties shall bear their respective costs.
4. The \$125.00 previously deposited by the Claimant with the NASD shall be retained by the NASD. Respondent Shuttlesworth is liable and pay \$125.00 to the Claimant as reimbursement of the filing fee.

Affirmation

STATE OF

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COUNTY OF

I, Michael A. Caldwell, do hereby affirm upon my oath  
as arbitrator that I am the individual described in and who executed this instrument,  
which is my oath and award.

Michael A. Caldwell  
Signature of Arbitrator

Date of Decision : August 22, 1995