

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

John D. King

94-02366

Name of Respondents

K. Aufhauser & Company

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on June 20, 1994, Claimant John D. King, who appeared Pro Se, alleged that Respondent K. Aufhauser & Company failed to execute his sell order of 3500 shares of Air Transportation Holdings stock, even though he was told by a broker at Respondent that the sale had been made. Claimant further alleged that the stock in question did a 1:5 reverse split, which supposedly cancelled his trade, and that the stock in question promptly decreased in price after the date of his supposed trade. Claimant contended that he was not promptly told that the trade was cancelled because of the reverse split, and that his broker at Respondent did not make a reasonable attempt to permit him to reinstate the sell order in a timely way in order to avoid the loss suffered. As a result of the above, Claimant alleged that he has suffered damages for which the Respondent should be held liable.

Respondent K. Aufhauser & Company, through its representative R. Keith Aufhauser, maintained that the stock in question was trading at the new, post-split price when the Claimant placed the order in question. Respondent denied that Claimant received a confirmation of a sale at \$1 1/4 per share. Respondent denied that the order in question was cancelled because of the fact of the split, and contended that the order was properly treated as a day limit order at the adjusted price. Respondent denied that any execution was due or that there was any failure to communicate with the Claimant. Respondent maintained that since the stock was already trading based on the reverse split, Claimant's order was

properly modified by Respondent's over-the-counter desk to become a day order to sell 700 shares at a limit price of \$6 1/4 per share. Respondent further maintained that since the stock never reached \$6 1/4 per share subsequent to the placement of the order in question, Claimant was not entitled to an execution. As a result of the above, Respondent contended that it should not be held liable in this matter.

RELIEF REQUESTED

Claimant John D. King requested \$1,000.00 in actual damages.

Respondent K. Aufhauser & Company requested that the Claimant's Statement of Claim be dismissed in its entirety.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single public arbitrator, Douglas F. Pierce, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on June 14, 1994 and by the Respondent on August 31, 1994.

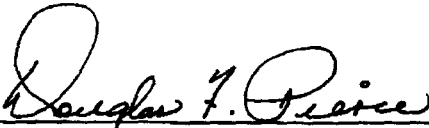
And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The claims of Claimant John D. King against Respondent K. Aufhauser & Company are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. The \$30.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc.

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AFFIRMATION

I, **DOUGLAS F. PIERCE**, do hereby affirm upon my oath of arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.



Signature of Arbitrator

DATE OF DECISION:

November 29, 1994