

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Steven C. Schapira

95-00853

Name of Respondent

National Discount Brokers

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on February 17, 1995, Claimant Steven C. Schapira, who appeared Pro Se, alleged that Respondent National Discount Brokers, failed to fully execute a trade that he had requested, resulting in a loss to Claimant in the amount of \$3,600.00. Claimant contended that he requested Respondent sell 2,000 shares of Nextel Communications, Inc. stock and that Respondent confirmed to him that his order had been fully filled, later that same day, when in fact, only 200 shares of the stock had been sold. Claimant further contended that he was informed of this error the next day, which was confirmed after speaking with a Manager, Terrance. Claimant alleged that Respondent admitted the error had occurred and offered to rectify it by executing 30 free NASD trades amounting to a credit of \$750.00. Claimant contended that he has suffered damages due to the wrongdoing of Respondent, that Respondent's "don't seem to care" about Claimant's loss, and that they should be held liable for this loss incurred due to the trade not being executed as requested and as Respondent had confirmed to Claimant.

Respondent National Discount Brokers, through its representative and in-house counsel, Seth Rosen, Esq., of New York, NY, maintained that Claimant placed an unsolicited limit order to sell 2,000 shares of Nextel Communications, Inc. at 18 1/2 and that the order was partially filled with 200 shares sold before the market price for the stock dropped below the Claimant's price. Respondent further maintained that Claimant's order was handled properly, notwithstanding Claimant's allegations regarding erroneous confirmation by Respondent, and that the market would only bear the sale of 200 shares at 18 1/2. Further, Respondent contended that Claimant, as of November 18, 1994 was aware that he still owned 1,800 shares of Nextel Communications, Inc. and that Claimant decided to hold the shares for 19 days when he could have entered a sell order at any time. Respondent contended that since only Claimant could sell the shares, Claimant not Respondent should bear the loss due to any adverse price movement. Furthermore, Respondent "vehemently" denies Claimant's contention that they "don't seem to care", and also maintained that 1/3 of their employees are involved in assisting customers and that Claimant's accusation is unwarranted. The Respondent further contended that it has demonstrated that all of its actions were correct and in compliance with appropriate Rules of Fair Practice, and that therefore, the claims against it should be dismissed.

RELIEF REQUESTED

Claimant Steven C. Schapira, requested \$3,600.00 in actual damages.

Respondent National Discount Brokers, requested that the claims of the Claimant be dismissed in their entirety.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Robert Pincus, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on February 13, 1995, and by the Respondent March 31, 1995.

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. Respondent National Discount Brokers, is liable and shall pay to Claimant Steven C. Schapira, \$3,600.00 in actual damages.
2. Respondent National Discount Brokers, is liable and shall pay to Claimant Steven C. Schapira, simple interest at the rate of 6% per annum from November 17, 1994 to the date of payment of this award.
3. The parties shall bear their respective costs.
4. The \$125.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Steven C. Schapira, shall be retained by the NASD, Inc. Respondent National Discount Brokers, is liable and shall pay \$125.00 to Claimant Steven C. Schapira, as reimbursement of the filing fee.

AFFIRMATION

STATE OF New York

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ss:

COUNTY OF WESTCHESTER

I, Robert Pincus, do hereby affirm upon my oath as arbitrator that I am
the individual described herein and who executed this instrument, which is my award.



Signature of Arbitrator

DATE OF DECISION: November 7, 1995