

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Christian V. Marcussen Trust

95-01050

Name of Respondents

Kennedy, Cabot & Company
Allison B. Clago

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on February 28, 1995, Claimant Christian V. Marcussen Trust ("Claimant"), through its representative, Christian V. Marcussen, alleged that Respondents Kennedy, Cabot & Company ("KCC") and Allison B. Clago ("Clago"), failed to execute a transaction. Claimant further alleged that during June of 1993, it told Respondent Clago, that if the market should decline, all securities in its portfolio should be sold. Claimant contended that the market did decline and Clago did not sell its securities nor did she return phone calls which prevented Claimant from trading. Claimant further contended that it has suffered a loss for which Respondents' should be held liable.

Respondents Kennedy, Cabot & Company and Allison B. Clago, through their representative, George Kupper, Esq., in-house counsel for Kennedy, Cabot & Company, maintained that Claimant still has in his account the full number of shares that he purchased in the four funds allegedly giving rise to the damages set forth in the Statement of Claim. Respondents further maintained that Claimant has no realized losses, and accordingly, they should not be held liable.

RELIEF REQUESTED

Claimant Christian V. Marcussen Trust, requested \$10,00.00 in actual damages.

Respondents Kennedy, Cabot & Company and Allison B. Clago, 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, Norman R. Cohen, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on March 15, 1995, and by the Respondents on April 28, 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. The claims of the Claimant Christian V. Marcussen Trust, against Respondents Kennedy, Cabot & Company and Allison B. Clago, are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Christian V. Marcussen Trust, shall be retained by the NASD, Inc.

Page Three
Award 95-01050

AFFIRMATION

I, NORMAN R. COHEN, 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.



Norman R. Cohen, Esq.

DATE OF DECISION: August 16, 1995