

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Frederick J. Del Grosso and
Brigitte Del Grosso JTWROS

95-01259

Name of Respondent

K. Aufhauser & Company, Inc.

REPRESENTATION

Claimants Frederick J. Del Grosso and Brigitte Del Grosso, JTWROS ("Claimants") were represented by Frederick J. Del Grosso

Respondent K. Aufhauser & Company, Inc. ("Respondent") was represented by R. Keith Aufhauser, President, K. Aufhauser & Company, Inc., New York, NY

CASE INFORMATION

The Statement of Claim was filed March 13, 1995.
The Amended Statement of Claim was filed on June 2, 1995
Claimants' Submission Agreement was signed on March 7, 1995.

The Statement of Answer was filed by Respondent on May 17, 1995
The Answer to the Amended Statement of Claim was filed on June 20, 1996
Respondent's Submission Agreement was signed on May 9, 1995

HEARING INFORMATION

Hearing Date/Sessions: April 11, 1996/one session

Hearing Location: Vincent Varallo Associates, Inc.
Philadelphia, PA

CASE SUMMARY

Claimants alleged, among other things, that inadequate instructions on Respondent's automated telephone Trade Line caused Claimants to purchase 5,000 shares of Portugal Fund ("PGF") on December 15, 1994, rather than shares with a total value of \$5,000.00 as Claimants intended. Claimants alleged that at no time did the instructions on the automated Trade Line or the information booklet

for new accounts make a reference to "shares" being the trading unit as opposed to "dollars". Claimants alleged that on December 16, 1994, Claimants purchased 5,000 shares of New Germany Fund ("NGF") when Claimants intended to purchase \$5,000.00 in shares of NGF. It was after the second transaction that Claimants learned of the error and immediately sold all unwanted shares on December 16, 1994. Claimants also alleged that the two transactions were unsuitable for Claimants. Claimants alleged that each purchase exceeded Claimants' purchasing power which is in violation of Respondent's policy requiring "[sufficient] . . . funds or securities to be in the account . . . " before the order can be entered. Claimants alleged that Respondent's negligence was responsible for Claimants' damages.

Respondent categorically denied all allegations of wrong doing. Respondent maintained that K. Aufhauser & Co., a discount brokerage firm, serves intelligent investors with knowledge and experience about the financial market. Respondent maintained that Respondent always made representatives available to answer questions from clients who had any questions regarding how to execute transactions on the automated Trade Line. Respondent maintained that Claimants signed and approved a margin account which allowed Claimants to fully utilize the purchasing power of their account beyond that of their cash reserves. Respondent maintained that Claimants did not contact Respondent until the day following the purchase of PGF to confirm the amount of the transaction. Respondent maintained that when Claimants discovered Claimants' error on the purchase of PGF and NGF, Claimants requested the excess positions be sold. Respondent maintained that the purchase of NGF and the sale of both PGF and NGF were done without commission to assist the Claimants to rectify Claimants' error. Respondent maintained that no securities laws or regulations were violated and that any loss suffered by Claimants was due to the Claimants' own actions.

RELIEF REQUESTED

Claimants requested \$2,598.69; pre-award interest of four percent (4%) from December 16, 1994; and the expenses of this arbitration.

Respondent requested that the Statement of Claim be dismissed in its entirety.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that a handwritten, signed Award may be entered. In this case, the parties have agreed to receive a conformed copy of the Award while the original remains on file with the NASD.

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. That Respondent is liable to and shall pay to Claimants the sum of \$2,078.95.
2. That the request for pre-award interest is denied.
3. That each party shall pay their own costs and expenses.
4. That any request for relief not specifically addressed herein is denied.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed:

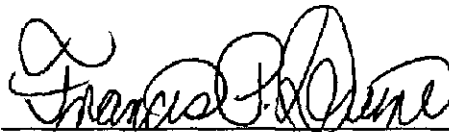
1 session X \$150 = \$150.00

Forum Fees are assessed against Respondent at eighty percent (80%) and Claimants at twenty percent (20%). Respondent is liable to and shall reimburse Claimants for \$120.00 of the \$150.00 hearing session deposit previously filed with the NASD.

DATE

ARBITRATOR'S SIGNATURE

4/19/96



Francis P. Devine, III, Presiding
Public Arbitrator

Date Decision Served by NASD: May 26/1996