

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Gary W. Hopkins

95-03635

Name of Respondents

Rodger O. Riney
Thomas R. Nemcek

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on July 27, 1995, Claimant Gary W. Hopkins ("Claimant"), who appeared Pro Se, alleged that Respondents Rodger O. Riney ("Riney") and Thomas R. Nemcek ("Nemcek"), worked at Scottsdale Securities, Inc. ("SSI") and were responsible for the handling of his account with SSI. Claimant further alleged that on November 17, 1994 he placed his first trades which dealt with S&P puts and calls. Claimant contended that on November 21, 1994 he placed an order to buy "eight contracts of S&P 500 Dec., 445 calls at 4 5/8." Claimant further contended that he called Nemcek 10 minutes later and changed the order to "S&P 500 Dec. 440 calls, but still at the same price of 4 5/8." Claimant alleged that he contacted Nemcek on November 25, 1994 regarding other business and was told that the S&P calls orders which he had placed were not trading for 5/8 bid and 11/16 offer and asked what he wanted to do to which Claimant replied to purchase at the offer price. Claimant further alleged that the order was confirmed about fifteen minutes later and that because he thought the price was incorrect, he called the next day to ask Nemcek what had been purchased. Claimant contended that he spoke to Riney, the President of SSI, who indicated he would rescind the trade if there was an error. Claimant further contended that as a result of the above, he has suffered a loss for which the Respondents should be held liable.

Respondents Rodger O. Riney, and Thomas R. Nemcek, through their representative at Scottsdale Securities, Inc., Mark Finnegan, maintained that SSI is a deep discount brokerage firm which gives no advice nor do its brokers give recommendations. Respondents further maintained that they do not call people and solicit them to open accounts or purchase securities. Respondents contended that the phone calls with the Claimant were tape recorded as is provided for in the customer agreement which Claimant signed. Respondents further contended that the recording of the conversation which Claimant had with Nemcek clearly shows that at no time was SPX or S&P 500 mentioned. Respondents maintained that during the confirmation call the Claimant acknowledged that OEX or S&P 100 index options had been purchased. Respondents further maintained that the S&P 500 index was not even close to the price which Claimant indicates he had given. Respondents contended that as a result of the above, they should not be held liable.

RELIEF REQUESTED

Claimant Gary W. Hopkins, requested \$2,850.15 in actual damages plus interest and costs.

Respondents Thomas R. Nemcek, and Rodger O. Riney, requested that the claims of the Claimant be dismissed.

AWARD

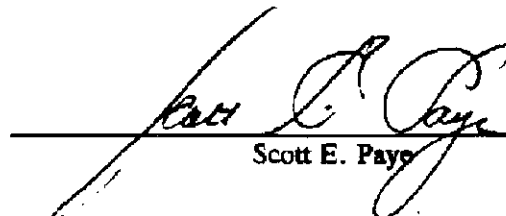
Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Scott E. Paye, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Gary W. Hopkins, on July 21, 1995, and by the Respondent Rodger O. Riney, on September 29, 1995, and by Respondent Thomas R. Nemcek, on September 18, 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 Gary W. Hopkins, against Respondents Rodger O. Riney, and Thomas R. Nemcek, are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. The \$125.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Gary W. Hopkins, shall be retained by the NASD, Inc.

AFFIRMATION

I, SCOTT E. PAYE, 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.



Scott E. Paye

DATE OF DECISION: December 20, 1995