

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of Arbitration Between

Name of Claimant

Sheila B. Friedman

95-03842

Name of Respondents

Investex Securities Group, Inc.
and Frank Somma

REPRESENTATION

Claimant, Sheila B. Friedman appeared pro se.

For Respondents, Frank Somma, President of Investex Securities Group, Inc., New York, NY

CASE INFORMATION

Statement of Claim filed: August 8, 1995

Claimant's Submission Agreement signed on: July 28, 1995

Statement of Answer filed: August 14, 1995

Respondent Investex Securities Group, Inc.'s Submission Agreement signed on: August 14, 1995

Respondent, Frank Somma's Submission Agreement signed on: August 14, 1995

HEARING INFORMATION

Hearing dates/sessions: December 5, 1995 (2 Sessions)

The hearings were held at the offices of the National Association of Securities Dealers, Inc. located in New York, New York.

CASE SUMMARY

Claimant alleged that on November 22, 1994 she purchased 13 Hewlett Packard ("HP") puts from Respondent, Investex Securities Group, Inc. ("Investex"). Claimant further alleged that at approximately 4:00 PM on December 8, 1994 she called Investex to sell the 13 HP puts and spoke with "Brad" to request that the position be closed. In addition, Claimant alleged that she held on the telephone until "Brad" told her the trade had been executed.

Claimant alleged that at approximately 4:30 PM the same day she received a message from Investex that her trade had not been completed and that upon calling Investex was informed that there had been a mistake made by a specialist on the exchange floor. Claimant further alleged that the next day she called Investex to confirm whether or not the trade was made and was told that "everything went as planned."

However, Claimant alleged that two weeks later she received a confirmation that she had bought 13 HP puts. Claimant further alleged that she immediately called Investex and spoke to Respondent, Frank Somma ("Mr. Somma") to whom she stated that she did not think the specialist made the mistake but that the mistake had been made by Investex. Claimant alleged that Mr. Somma then became abusive and stated that he "did not have to answer" to Claimant.

Respondents maintained that Investex's records indicate that Claimant placed an order at 4:02 PM on December 8, 1994, to sell her position of 13 HP puts at \$5.00 at which time the option was quoted at 4 7/8 bid, offered at 5.

Respondent maintained that due to a transmission error the order was placed as a buy which was executed at 4:05 PM. Respondents maintained that once the error was discovered, Investex informed Claimant of the error and explained that the option could not be sold at 5, since the bid was 4 7/8.

Mr. Somma maintained that Claimant indicated that she would call on December 9, 1994 to obtain the opening price of the HP option; however, Claimant did not call to sell her position that day nor within the next 25 business days. In addition, Respondent maintained that Claimant did not sell her position while the options had value although she could have realized a profit.

Finally, Respondents maintained that Investex credited Claimants account \$500.00 to offset the price difference of the HP options between the close of December 8 and the opening of December 9 in order to adjust her sale to the closing bid of December 8 as was agreed between Mr. Somma and Claimant.

RELIEF REQUESTED

Claimant requested damages in the amount of \$6,500.00 and the costs of the hearing.

Respondents requested that all claims be dismissed in their entirety.

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) Respondents be and hereby are jointly and severally liable and shall pay to the Claimant the sum of \$2,675.00; and,
- 2) Respondents be and hereby are jointly and severally liable and shall pay to the Claimant the sum of \$275.00 as reimbursement for the hearing session deposit and filing fee paid by the Claimant.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the arbitrators have assessed the following forum fees:

Filing Fees:	\$ 75.00	
Hearing Sessions:	\$400.00	(2 Sessions x \$200)
Total Forum Fees:	\$475.00	

- 1) Respondents are assessed the sum of \$475.00 representing the total forum fees, less \$275.00 paid, leaving \$200.00 due. Respondents be and hereby are jointly and severally liable and shall pay to the NASD the sum of \$200.00.

Fees are payable to the National Association of Securities Dealers, Inc.

ARBITRATOR'S SIGNATURE

Allen Kilik
Allen Kilik, Esq.
Public Chairperson

Date of decision: 12/27/95

I, Allen Kilik, Esq., do hereby affirm pursuant to Article 7507 of the Civil Procedure Law & Rules, that this is my decision in the above captioned matter.

Allen Kilik
Allen Kilik, Esq.