

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Koonce Securities Inc.

95-04907

Name of Respondent

Charles C. Maxwell

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on October 17, 1995, Claimant Koonce Securities, Inc. ("Claimant"), through its representative, Calvin S. Koonce, of Bethesda, MD., alleged that Respondent Charles C. Maxwell ("Maxwell") was employed by Claimant as the broker of record for a December 7, 1994 trade in the account of Herman and Vivian Cohen, which trade generated \$685.63 in commission for Maxwell. Claimant further alleged that due to an error on the trade, client was not charged commission, and to date has not paid the unbilled commission. Claimant contended that subsequent to the disputed trade, and prior to resigning from the employ of Claimant, Maxwell received a commission payment from Claimant at \$685.63 in error, and to date has refused to return this sum. Claimant further contended that as a result of the above, it has suffered a loss for which the Respondent should be held liable.

Respondent Charles C. Maxwell, who appeared Pro Se, maintained that the overpayment error in the disputed trade results from discrepancies in the "Pool Number" and "Price" segments of the confirmation ticket, which are admitted by Claimant to be the fault of Claimant's back office and trading department. Respondent further maintained that Claimant has not made a legitimate effort to recover overpaid funds from customer, as would be required pursuant to the relevant Customer Agreement. Respondent contended that, pursuant to his Employment Agreement with Claimant, he is paid only by commissions for adequately servicing customer trade needs, which responsibility he discharged in the disputed transaction. Respondent further contended that as a result of the above, there is no basis in fact or justification for this claim, and that he should not be held liable.

RELIEF REQUESTED

Claimant Koonce Securities, Inc., requested \$685.53 in actual damages, plus interest and costs.

Respondent Charles C. Maxwell, requested that the claims of the Claimant be dismissed in their entirety.

AWARD

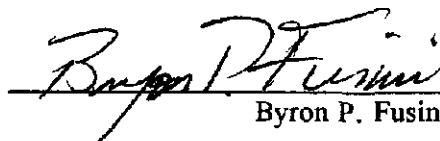
Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Bryon P. Fusini, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Koonce Securities, Inc., on September 25, 1995, and by the Respondent Charles C. Maxwell, on November 20, 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 Koonce Securities, Inc., against the Respondent Charles C. Maxwell, are denied in their entirety.
2. The parties shall bear their respective costs.
3. The \$575.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Koonce Securities, Inc., shall be retained by the NASD, Inc.
4. All other relief requests are denied.

AFFIRMATION

I, **BRYON P. FUSINI**, 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.


Byron P. Fusini

DATE OF DECISION: February 15, 1996