

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Steven I. Chudy

96-01181

Name of Respondents

Kensington Wells Inc.
Douglas J. Guarino

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on March 18, 1996 Claimant Steven I. Chudy ("Claimant"), who appeared Pro Se, alleged that Respondents Kensington Wells Inc. ("Kensington") and Douglas Guarino ("Guarino") ("collectively referred to as Respondents") failed to execute trades. Claimant further alleged that on December 13, 1995 he called Guarino and told him to sell 2000 shares of Iatros Health Network ("Iatros") and 2500 shares of Xechem and close his account. Claimant asserted that Guarino tried to talk him out of selling the Xechem security by saying that it should go up, at which point Claimant agreed to sell 2000 shares of Iatros and only 500 shares of Xechem. Claimant further asserted that Guarino complied with his request and sold 2000 shares of Iatros on December 14, 1995, but did not sell the 500 shares of Xechem until December 26, 1995. Claimant contended that on January 16, 1996 he called Guarino to inquire about when he will receive the check for the sale that was made in December and requested to sell the remaining Xechem shares because after waiting a month, the stock price did not move as Guarino had hoped. Claimant further contended that two weeks after the conversation which instructed Guarino to sell Xechem, he did not receive a confirmation of the sale nor the proceeds of the sale. Claimant alleged that he called Guarino several times in late January to early February, and left messages inquiring about the confirmation of the January sale because he began to notice that the price of the stock was dropping. Claimant further alleged that when he finally received the confirmation slip, he noticed that Guarino had sold the remaining shares of Xechem on February 5, 1996, which was after the price of the stock dropped. Claimant asserted that he complained to the Principal of Kensington about Guarino's failure to follow the client's directions, but was turned away by Mr. Velanis who said that he found no reason to honor his complaint. Claimant further asserted that due to the wrongdoing of the Respondents, he suffered damages for which the Respondents should be held liable.

Respondents Kensington Douglas through their representative, Howard S. Eilen, Esq., located in Uniondale, NY, maintained that the December 13, 1995 conversation instructed Guarino to sell only the holdings in Iatros, which was done. Respondents further maintained that the 500 shares of Xechem were sold two to three weeks later because the Claimant agreed to give Guarino time to see if the price of the stock would go up. Respondents contended that on January 16, 1996, Claimant called Guarino and asked about the proceeds of the 500 shares of Xechem, but he never complained or entered a sell order about the remaining shares of Xechem, even though he was well aware from his December statement that he was still long 2,000 shares of Xechem. Respondents further contended that on January 16, 1996 Claimant seemed to be happy with the price of Xechem which was up a bit. Respondents maintained that on February 5, 1996 the Claimant instructed Guarino to sell the remaining shares of Xechem, which was executed. Respondents further maintained that the Claimant was a knowledgeable about the securities market and ratified the transactions in his account. Respondents contended that it committed no wrongdoing and requested that the claims against them be dismissed.

RELIEF REQUESTED

Claimant Steven I. Chudy, requested \$8,750.00 in actual damages.

Respondent Kensington Wells Inc., requested that the claims of the Claimant be dismissed.

AWARD

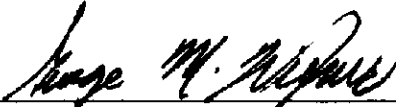
Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, George M. Wiener, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Steven I. Chudy on March 14, 1996 and not by the Respondents Kensington Wells, Inc. and Douglas Guarino.

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 Steven I. Chudy against Respondents Kensington Wells, Inc. and Douglas Guarino 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 shall be retained by the NASD, Inc.
4. All other relief requests are denied.

AFFIRMATION

I, **GEORGE M. WIENER**, 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.

A handwritten signature in cursive script, appearing to read "George M. Wiener", is written over a horizontal line.

Signature of Arbitrator

DATE OF DECISION: September 3, 1996