

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Bob F. Reaves

96-02184

Name of Respondents

Bidwell & Company  
Bryan D. Smith

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CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on May 21, 1996, Claimant Bob F. Reaves ("Claimant"), who appeared Pro Se, alleged that Respondents Bidwell & Company ("Bidwell") and Bryan D. Smith ("Smith") failed to properly executed his instructions to sell 2000 common shares of K Mart Corporation ("K Mart") and to buy back 20 covered call options for these shares. Claimant further alleged that these positions were held in his individual retirement account ("IRA"), thus the option trades should have been transacted first, followed by the sale of the common shares because an IRA cannot have a short position. Claimant also alleged that he gave Smith instructions regarding these transactions at about 10:20 am on March 24, 1996. Claimant contended that the 2000 K Mart shares were sold but that only 10 of the covered calls were bought back on the 24th despite repeated phone calls demanding that the remaining 10 be bought back that day. Claimant further contended that he unsuccessfully attempted to resolve this matter with Respondents, and that as a result of the above, he has suffered a loss for which the Respondents should be held liable.

Respondents Bidwell & Company and Bryan D. Smith, through their representative, Julie A. Bussing, Vice President Operations at Bidwell, maintained that Claimant bears the responsibility for directing his investment activities in his IRA. Respondents further maintained that Claimant place limit orders which have the risk of partial execution. Respondents also maintained that as a result of the Claimant's trading activities, they had a compliance issue with regard to his IRA which had to be remedied at the first possible opportunity--at the market open the following day. Respondents contended that they followed industry practice, industry regulations and firm policies, and that as a result of the above, they should not be held liable.

**RELIEF REQUESTED**

Claimant Bob F. Reaves requested \$500.00 in actual damages plus \$500.00 in punitive damages and fees.

Respondents Bidwell & Company and Bryan D. Smith requested that the claims be dismissed in their entirety.

**AWARD**

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, O. Meredith Wilson, Jr., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on May 17, 1996, and by Respondents Bidwell & Company on July 2, 1996 and Ryan D. Smith on July 11, 1996.

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 Bob F. Reaves against Respondents Bidwell & Company and Bryan D. Smith are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. The \$30.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc.

**AFFIRMATION**

I, O. MEREDITH WILSON, JR., 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.

*O. Meredith Wilson Jr.*

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Signature of Arbitrator

DATE OF DECISION

September 6, 1996