

N.A.S.D. REGULATION AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between
Name of Claimant

Steven Conner

96-04557

Name of Respondent

Bidwell & Company

CASE SUMMARY

In a case filed with the National Association of Securities Dealers Regulation, Inc. on October 14, 1996, claimant Steven Conner ("claimant"), who appeared Pro Se, alleged that respondent Bidwell & Company ("Bidwell") violated federal law by holding a trade open past the settlement date. Claimant further alleged that on August 5, 1996, he sold 228 shares of UICI stock at 21 3/8 and used the proceeds to immediately purchase 261 shares of Teleport Communications Group stock ("TCG") at 18 3/8. Claimant also contended that his account at Bidwell was a custodian account; and his custodian was Transcorp Pension Services ("Transcorp"); and that Transcorp rejected the trade because they had not received an authorization from him to approve the trade.

Claimant further asserted that, subsequently, the trade was unable to settle in three days as is required. Claimant also asserted that instead of "selling out" the trade after three days, Bidwell held the trade open for another sixteen days until they finally allowed to fail on August 21, 1996. Claimant contended that during the time Bidwell held the trade open, they did not send him any written notification that there was a problem with the trade. Claimant further contended that the only attempt to notify him came on August 20, 1996, when they dispatched Isaac Baamer ("Baamer") a registered representative of Bidwell, to his mailing address which happened to be a Mailbox, etc. ("Mailbox") in Lake Oswego, Oregon. Claimant also contended that in a letter he received from Bidwell's President, it stated that when Baamer saw that the address was a mailbox, Bidwell gave up and canceled the trade. Claimant alleged that if Baamer asked the people at Mailbox, he would have been told that it was a valid address, in addition, claimant asserts that Bidwell had no reason to believe that the address was invalid.

Claimant further alleged that on August 21, 1996, when Bidwell finally canceled the trade, they sent him a cancellation notice, which he received on Friday, August 23, 1996. Claimant also alleged that he immediately called Bidwell and arranged the same trade for first thing Monday. Claimant asserted that he sold UICI at 22 5/8, but had to purchase TCG at 24 1/8, instead of 18 3/8. Claimant further asserted that Bidwell did not sell out the trade after three days because TCG had declined in value and Bidwell did not want to have to cover the loss until they could recover it from him. Claimant also asserted that Bidwell points the finger at Transcorp for not notifying him. Claimant contended that while it may be true the Transcorp could have notified him, it was the primary responsibility of Bidwell, who chose to hold the trade open based on a falsified extension.

Respondent Bidwell through its representative and Vice President David Clark, maintained that at claimant's instruction, they opened the account as a "deliver v. payment" ("DVP") account. Respondent further maintained that in accounts of this nature, the look to the registered owner for performance and it is up to the beneficial owner to timely transmit delivery and payment instructions to agent. Respondent also maintained that claimant was aware of the DVP account procedure. Respondent contended that August 5, 1996, claimant called to sell UICI and to buy 261 shares of TCG. Respondent further contended that they executed the orders as instructed, but was unable to settle either trade with the custodian, because claimant had not issued any instructions to Transcorp.

Respondent also contended that between August 5 and August 20, 1996, Bidwell was exposed by as much as \$500.00. Respondent maintained that during that period they had several conversations with Transcorp and made numerous attempts to locate claimant, by mail and telephone. Respondent further maintained that they sent one of their employees to the Lake Oswego address, but when they found out that this address was a commercial mail drop, they concluded that they could not wait any longer for Transcorp to contact claimant, so they accordingly unwound the trade. Respondent also maintained that claimant called that after receiving the trade cancellations and was very abusive and threatening and then hung up. Respondent contended that claimant called back after speaking with Transcorp and admitted that they had erred and would take care of any losses to the account. Respondent further contended that claimant bears the full responsibility for communicating his instructions to his custodian.

RELIEF REQUESTED

Claimant Steven Conner requested \$945.38, representing the difference between the price of TCG on August 5 and August 26, offset by the profit he made by selling UICI 16 days later.

Respondent Bidwell & Company requested that the claims of claimant be dismissed in their entirety.

AWARD

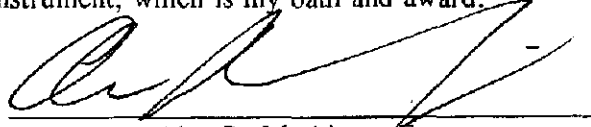
Pursuant to Rule 10302 of the Code of Arbitration Procedure, a single Public Arbitrator, Alan Markizon, was selected to review the matter in controversy between the parties set forth in Submissions to Arbitration signed by claimant Steven Conner on October 8, 1996 and by respondent Bidwell & Company on November 26, 1996 as required by Rules 10301 and 10302 of the Code of Arbitration Procedure.

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 claimant Steven Conner against Bidwell & Company are dismissed in their entirety.
2. The \$30.00 filing fee previously deposited by claimant shall be retained NASD Regulation, Inc.

AFFIRMATION

I, **Alan Markizon, Esq.**, do hereby affirm upon my oath as arbitrator that I am the individual described herein who executed this instrument, which is my oath and award.



Alan R. Markizon, Esq.

Date of Decision: May 16, 1997