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N.A.S.D. REGULATION AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS REGULATION, INC.

In the Matter of the Arbitration Between

Name of Claimants

Earl G. and Ruth E. Helbig

96-05563

Name of Respondent

Tradestar Investments, Inc.

REPRESENTATION

Claimants Earl G. and Ruth E. Helbig ("Claimants") appeared *pro se*.

Respondent Tradestar Investments, Inc. ("Respondent") was represented by Kevin Wilson, Tradestar Investments, Inc., Bryn Mawr, PA.

CASE INFORMATION

The Statement of Claim was filed December 16, 1996.

Claimants' Uniform Submission Agreement was signed December 13, 1996.

Respondent's Answer was received February 12, 1997.

Respondent's Uniform Submission Agreement was signed January 30, 1997.

HEARING INFORMATION

Hearing Date/Sessions: July 22, 1997/one session

Hearing Location: Vincent Varallo & Associates  
Philadelphia, PA

CASE SUMMARY

Claimants alleged that Respondent made transactions in their account after Respondent had agreed to close Claimants' account. Claimants alleged that they opened a brokerage account with TradeSaver, which was affiliated with their bank, PNC Bank. Claimants alleged that early in 1996 they learned that TradeSaver was taken over by TradeStar, a new entity which was not affiliated with PNC Bank. Claimants said that they did not received notification of the change and they did not wish to have their account remain with TradeStar. Claimants alleged that they decided that they would transfer their stock to PNC Brokerage Corp. Therefore, Claimants alleged that in early March of 1996 they contacted Respondent and confirmed that any future stock transactions would be done by PNC Brokerage Corp and that Respondent was to send their 500 shares of Waxman Industries, Inc. ("Waxman") stock to Claimants thus terminating

the account. Claimants alleged that they contacted TradeStar while on vacation to confirm that the Waxman stock had been mailed to Claimants on March 25, 1996. However, Claimants were also informed that on March 26, 1996 500 shares of Waxman was sold from Claimants' account even though Respondent no longer had possession of the stock and had been informed that all future trades would be done in Claimants' new account. When they returned from their vacation, Claimants alleged they were informed that Respondent, without authorization, accessed their Money Market account at PNC Bank, withdrew \$2,185.00 and subsequently deposited \$957.96, leaving a deficient of \$1,227.04. Claimants alleged that Respondent had no authority to sell and/or repurchase the 500 shares of Waxman after Claimants had closed their account.

Respondent denied the allegations of wrong-doing as asserted in the Statement of Claim. Respondent maintained that they acquired TradeSaver in the fall of 1995 and thus Claimants became customers of TradeStar. Respondent further maintained that Claimants entered an open order to sell 500 shares of Waxman at a limit of \$2.00 per share on September 17, 1995, which sell order was never retracted. Respondent maintained that Claimants received monthly statements from Respondent clearly showing the existence of an open order to sell the Waxman stock. Respondent maintained that the open sell order was executed on March 26, 1996 at a price of \$2.00 per share, thus following Claimants original instructions and when the stock was not received on the settlement date plus an extension, the sold position was thus bought back at the market to cover the short. Respondent maintained that the buy-in price was \$4 1/4 per share. Respondent maintained that there is no record in the branch office placing any order to cancel the original sell order of Waxman. Therefore, Respondent maintained that they followed usual procedures in the management of Claimants' account.

#### RELIEF REQUESTED

Claimants requested relief of \$1,227.04.

Respondents requested that the Statement of Claim be dismissed.

#### OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that a handwritten, signed Award may be entered. In this case, the parties have agreed to receive a conformed copy of the Award while the original remains on file with the NASD.

#### 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. That Respondent is liable to and shall pay to Claimants \$900.00.
2. That Respondent is liable to and shall reimburse Claimants \$12.50, which represents one-half of the \$25.00 Claimants submitted to the NASD Regulation for the hearing session deposit.
3. That each party shall bear its own costs and expenses.
4. That any and all relief not specifically addressed herein is denied.

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**OTHER COSTS**

Pursuant to Rule 10333, Respondent is liable for a \$100.00 member surcharge. Respondent received credit for the \$100.00 previously submitted to the NASD Regulation, thus leaving no further surcharge due.

**FORUM FEES**

Pursuant to Rule 10332(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed:

1 session x \$25.00 = \$25.00

Forum Fees are assessed at \$12.50 to Claimants and \$12.50 to Respondents. Claimants and Respondent shall each receive credit for the hearing session deposit previously submitted to the NASD Regulation, leaving no further assessment due.

**DATE**

**ARBITRATOR'S SIGNATURE**

8/6/97



George R. Freund, Presiding  
Public Arbitrator

Date Decision Served by NASD Regulation:

August 18, 1997