

**IN ARBITRATION
UNDER CHAPTER XVIII OF THE RULES
OF THE CHICAGO BOARD OPTIONS EXCHANGE, INCORPORATED**

In The Matter Of)	
)	
Irwin Ross,)	
)	
Claimant,)	DECISION
)	
v.)	File No. 98M009
)	
Jeffrey Wynsma,)	
)	
Respondent.)	
)	

Representation

For Claimant: Pro Se
For Respondent: Pro Se

Pleadings

Statement of Claim and Submission Agreement, filed on or about:	December 4, 1998
Answer and Submission Agreement, filed on or about:	January 13, 1999

Hearing

The named parties appeared at the hearing specified below, and had full opportunity to present arguments and evidence.

Date:	April 7, 1999
No. of Sessions:	1
Location:	Chicago, IL

Summary of Issues

The dispute involves a transaction that included crossing Merck stock on the Cincinnati Stock Exchange. Irwin Ross ("Claimant") admits that he sold 600 Merck shares at 154 5/8 on December 1, 1998, that the transaction was not included on his sheets on December 2, 1998, and that because he did not specifically remember the trade, he corrected his Merck stock position at the opening on December 2, 1998. Claimant alleges that the sale of Merck was incorrectly entered into the account of Jeffrey Wynsma ("Respondent"), that the sale of 600 Merck shares was on Respondent's sheets on December 2, 1998, and that Respondent did not notify ING (U.S.) Securities, Futures and Options, Inc. ("ING") of the error until December 3, 1998. Claimant asserts that Respondent's failure to promptly notify ING of the error in Respondent's account caused Claimant's loss in the amount of \$2,437.50. Claimant requests an award against Respondent in the amount of 2,437.50, plus costs. Respondent denies responsibility for Claimant's loss.

Award*

After due deliberation and consideration of the hearing testimony, documentary evidence, and other submissions of the parties, the undersigned arbitrators, in full and final resolution of the matter in controversy, find that ultimately it is a market-maker's responsibility to know his own position. Therefore, Claimant is not entitled to compensation from Respondent for any losses incurred. No award is rendered for compensatory damages or costs.

Forum Fees

Pursuant to Chicago Board Options Exchange, Incorporated ("Exchange") Rule 18.33, the Arbitrators assess forum fees in the total amount of \$675.00 (\$75.00 filing fee, plus \$600.00 hearing session fee) as follows:

1. Claimant is responsible for \$675.00 in forum fees.
2. The Exchange shall retain the non-refundable filing fee in the amount of \$75.00 previously submitted by Claimant.
3. Claimant shall pay \$600.00 to the Exchange.

<u>/s/ Joseph Kinahan</u> Joseph Kinahan, Chair	<u>04/15/1999</u> Date
<u>/s/ Gary Birschbach</u> Gary Birschbach	<u>04/16/1999</u> Date
<u>/s/ Jean Hanrahan</u> Jean Hanrahan	<u>04/16/1999</u> Date

F:\Arb\award\98M009

* Pursuant to CBOE Rule 18.31, all monetary awards shall be paid within thirty (30) days of receipt unless a motion to vacate has been filed with a court of competent jurisdiction.