

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

Joseph C. Barna

And

03-00518
Nashville, Tennessee

Name of Respondent

Firstrade Securities, Inc.

Nature of the Dispute: Customer vs. Member.

REPRESENTATION OF PARTIES

Joseph C. Barna ("**Claimant**") was represented by G. Kline Preston, IV, Esq., Preston Law Group PC, Nashville, Tennessee.

Firstrade Securities, Inc. ("**Respondent**") was represented by Peter Gschweng, Firstrade Securities, Inc., Flushing, New York.

CASE INFORMATION

The Statement of Claim was filed on or about January 22, 2003. Submission Agreement of Claimant Joseph C. Barna was signed on January 17, 2003.

Statement of Answer was filed by Respondent Firstrade Securities, Inc. on or about April 2, 2003. Submission Agreement of Respondent Firstrade Securities, Inc. was signed on March 27, 2003 by Peter Gschweng.

CASE SUMMARY

Claimant alleged that

Since Firstrade was the custodian of Barna's IRA account, based on their own rules and regulations and the IRS rules and regulations, Firstrade should never advised [sic] Barna to use and risk the IRA account to cover margin calls. Firstrade violated IRS and Firstrade own rules and regulations regarding IRA accounts.

Respondent engaged in negligence, mismanagement, misrepresentation, bad advise [sic], failure to properly supervise the broker's staff and allowing Barna's account to become over concentrated and failed to inform Barna of the high risk involved with margin accounts.

Respondent denied the allegations set forth in the Statement of Claim. Respondent specifically stated:

Claimant had an existing margin enabled brokerage account with Quick & Reilly. Claimant transferred said account to Firsttrade on or about August 1999 and Claimant continued the use of margin in his account with Firsttrade. During the year 2000 the market turned against Claimant and he directed and authorized the distribution of and subsequent return, or rollover, of assets in his IRA account with Firsttrade for his personal use in Claimant's individual account with Firsttrade. In February 2001, Claimant directed and authorized the distribution of assets from his IRA account with Firsttrade and directed those assets to be transferred to his individual account with Firsttrade. Once the Claimant authorized the distribution of assets from his IRA account, those assets are no longer considered for retirement purposes. Therefore, those assets transferred and held in the individual account, irregardless of where the assets originated, were subject to the provisions of the margin agreement and were treated pursuant to the rules, regulations, and practices of this industry and in accordance with the policies of U.S. Clearing as they relate to the use of margin. At no time was there a violation or breach of any rule, regulation, standard practice, or policy with regard to the handling of Claimant's accounts and the assets therein.

RELIEF REQUESTED

Claimant requested an award of damages in an amount in excess of \$101,399.67, interest, attorneys' fees and other relief, as this Arbitration Panel deems just and appropriate.

Respondent requested that the claims asserted in this matter be dismissed and the costs of this proceeding be assessed against the Claimant.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with the NASD Dispute Resolution (the "NASD").

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. The Panel finds in favor of the Respondent.
2. That to the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto are denied with prejudice.
3. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys fees, not specifically awarded or otherwise provided for above.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$300.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm(s) is(are) Firsttrade Securities, Inc..

Member surcharge	\$	1,700.00
Pre-hearing process fee	\$	750.00
Hearing process fee	\$	2,750.00
Total Member Fees	\$	<u>5,200.00</u>

Adjournment Fees

Adjournments requested during these proceedings:

Hearing Date(s), September 14 & 15, 2004 adjournment requested jointly by the parties. Fee waived by the Arbitration Panel. = \$1,125.00

Hearing Date(s), March 17 & 18, 2005 adjournment requested by Claimant. Fee waived by the Arbitration Panel. = \$1,125.00

Hearing Date(s), August 16, 2005 adjournment requested by Claimant. Fee waived by the Arbitration Panel. = \$1,500.00

Forum Fees and Assessments

The Arbitration Panel assesses forum fees for each hearing session conducted or each decision rendered on a discovery-related motion on the papers.. A hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

6	Pre-hearing session(s) with Panel	@	1,125.00	\$	6,750.00
	December 29, 2003	1	session		
	September 15, 2004	1	session		
	March 28, 2005	1	session		
	April 14, 2005	1	session		
	August 3, 2005	1	session		
	September 7, 2005	1	session		
2	Hearing sessions	@	1,125.00	\$	2,250.00
	February 9, 2006	2	sessions		
	Total Forum Fees			\$	9,000.00

The Arbitration Panel has assessed \$9,000.00 of the forum fees to Joseph C. Barna.

Fee Summary

Claimant, Joseph C. Barna, is liable for:

Initial Filing Fee	= \$	300.00
<u>Forum Fees</u>	= \$	9,000.00
Total Fees	= \$	9,300.00
<u>Less payments</u>	= \$	-1,425.00
Balance Due NASD Dispute Resolution	= \$	7,875.00

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Respondent, Firsttrade Securities, Inc., is liable for:


Member Fees	= \$	5,200.00
Total Fees	= \$	5,200.00
<u>Less payments</u>	= \$	-5,200.00
Balance Due NASD Dispute Resolution	= \$	0.00

All balances are due to NASD Dispute Resolution

ARBITRATION PANEL

Frank E. Barnett - Public Arbitrator, Presiding Chair
Jeffrey M. Bain, Esq. - Public Arbitrator
R. Patrick Shepherd - Non-Public Arbitrator

Concurring Arbitrators:



Frank E. Barnett
Public Arbitrator, Presiding Chair

2-28-06

Signature Date

Jeffrey M. Bain, Esq.
Public Arbitrator

Signature Date

R. Patrick Shepherd
Non-Public Arbitrator

Signature Date

2-28-06

Date of Service (For NASD office use only)

NASD Dispute Resolution
Arbitration No. 03-00518
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Respondent, Firsttrade Securities, Inc., is liable for:

Member Fees	= \$	5,200.00
Total Fees	= \$	5,200.00
<u>Less payments</u>	= \$	-5,200.00
Balance Due NASD Dispute Resolution	= \$	0.00

All balances are due to NASD Dispute Resolution

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R. Patrick Shepherd - Non-Public Arbitrator

Concurring Arbitrators:

Frank E. Barnett
Public Arbitrator, Presiding Chair

Jeffrey M. Bain, Esq.
Public Arbitrator

R. Patrick Shepherd
Non-Public Arbitrator

Signature Date

February 28, 2006
Signature Date

Signature Date

Date of Service (For NASD office use only)

Respondent, Firsttrade Securities, Inc., is liable for:

Member Fees	= \$	5,200.00
Total Fees	= \$	5,200.00
<u>Less payments</u>	= \$	-5,200.00
Balance Due NASD Dispute Resolution	= \$	0.00

All balances are due to NASD Dispute Resolution

ARBITRATION PANEL

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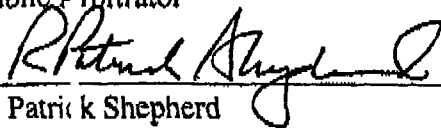
Concurring Arbitrators:

Frank E. Barnett
Public Arbitrator, Presiding Chair

Signature Date

Jeffrey M. Bain, Esq.
Public Arbitrator

Signature Date



R. Patrick Shepherd
Non-Public Arbitrator

2-23-06

Signature Date

Date of Service (For NASD office use only)