

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Ralph Arroyo, Claimant v. Bradford Jacobowitz and Interactive Brokers, LLC, Respondents

Case Number: 03-00815

Hearing Site: Los Angeles, California

Nature of the Dispute: Customer v. Member and Associated Person

REPRESENTATION OF PARTIES

For Claimant:

Ralph Arroyo
In Propria Persona
Perris, California

For Respondents:

David M. Battan, Esq.
Jocelyn Barone, Esq.
Interactive Brokers LLC
Washington DC

CASE INFORMATION

Initial Statement of Claim filed: January 30, 2003

Amended Statement of Claim filed: August 12, 2003

Claimant's Uniform Submission Agreement signed: January 30, 2003

Statement of Answer filed by Respondent Bradford Jacobowitz: April 14, 2003

Respondent Bradford Jacobowitz's Uniform Submission Agreement signed: April 14, 2003

Statement of Answer filed by Respondent Interactive Brokers, LLC: August 28, 2003

Respondent Interactive Brokers, LLC's Uniform Submission Agreement signed:
August 28, 2003

CASE SUMMARY

Claimant's Initial and Amended Statements of Claim each alleged breach of fiduciary duty, unauthorized trading and misrepresentation. Claimant's allegations involved Respondent Interactive Brokers, LLC's liquidation of shares of TYC stock pursuant to a margin call.

Respondents each denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim and asserted affirmative defenses.

RELIEF REQUESTED

Claimant's Initial and Amended Statements of Claim each requested \$4,000.00 in compensatory damages and costs.

Respondents each requested dismissal of the Claimant's Statement of Claim in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

On May 21, 2003, Claimant signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

On June 11, 2003, Respondent Bradford Jacobowitz's counsel signed a Waiver Agreement on his behalf expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

Pursuant to the Code of Arbitration Procedure IM-10100, the waiver of the Claimant shall constitute and operate as a waiver for all member firms and associated persons (including terminated or otherwise inactive member firms or associated persons) against whom the Claim has been filed.

Claimant's Initial Statement of Claim named only Respondent Bradford Jacobowitz. On April 14, 2003, Respondent Jacobowitz moved to dismiss the Statement of Claim against him. On August 12, 2003, a telephonic pre-hearing conference was held, attended by Ralph Arroyo, Claimant, Jocelyn Barone, Esq. representing Mr. Jacobowitz, and the Arbitrator. After due deliberation, the Arbitrator granted the motion, dismissing Respondent Jacobowitz without prejudice. The Arbitrator granted Claimant thirty days to amend his Statement of Claim. On August 12, 2003 Claimant filed an Amended Statement of Claim, naming Interactive Brokers, LLC as the Respondent.

On December 12, 2003 Respondent Interactive Brokers, LLC moved for summary judgment and, alternatively, for telephonic appearance. On December 26, 2003, after due deliberation, the Arbitrator granted Respondent's Motion for Summary Judgment.

On January 1, 2004, Claimant requested the Arbitrator to reconsider his ruling on Respondent's Motion for Summary Judgment. On January 13, 2004, after due deliberation, the Arbitrator granted Claimant's Motion for Reconsideration, denying without prejudice Respondent's Motion for Summary Judgment.

On January 13, 2004, Claimant requested the Arbitrator to reconsider his ruling allowing the telephonic appearance of Respondent Interactive Brokers, LLC and their witness. On January 29, 2004, after due deliberation, the Arbitrator denied Claimant's Motion for Reconsideration, offering Claimant the right to appear via telephone as well. On February 3, 2003 Claimant requested that he be allowed to appear via telephone and, on the same date, the Arbitrator granted Claimant's request.

The parties agreed that a handwritten, signed Award may be entered.

AWARD

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

- 1) Claimants' claims are denied in their entirety.
- 2) The parties shall bear their respective costs, including attorney's fees.
- 3) All other relief requested and not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee	= \$ 50.00
--------------------------	------------

Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm Interactive Brokers, LLC is a party and the following fees are assessed:

Member Surcharge	= \$ 200.00
------------------	-------------

Forum Fees and Assessments

The Arbitrator assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Arbitrator. The following fees are assessed:

Two (2) Pre-hearing conference session(s) with the arbitrator @ \$450.00/session	= \$ 900.00
--	-------------

Pre-hearing conferences:	August 12, 2003	1 session
	November 11, 2003	1 session

One (1) Hearing sessions @ \$450.00/session	= \$ 450.00
---	-------------

Hearing:	February 4, 2004	1 session
----------	------------------	-----------

Total Forum Fees	= \$1,350.00
-------------------------	---------------------

1. The Arbitrator assessed \$675.00 of the forum fees to Claimant Ralph Arroyo.
2. The Arbitrator assessed \$675.00 of the forum fees to Respondent Interactive Brokers, LLC.

Fee Summary

1. Claimant Ralph Arroyo is charged with the following fees and costs:

Initial Filing Fee	= \$ 50.00
<u>Forum Fees</u>	<u>= \$ 675.00</u>
Total Fees	= \$ 725.00
<u>Less payments</u>	<u>= \$(175.00)</u>
Balance Due NASD Dispute Resolution	= \$ 550.00

2. Respondent Interactive Brokers, LLC is charged with the following fees and costs:

Member Fees	= \$ 200.00
<u>Forum Fees</u>	<u>= \$ 675.00</u>
Total Fees	= \$ 875.00
<u>Less payments</u>	<u>= \$(200.00)</u>
Balance Due NASD Dispute Resolution	= \$ 675.00

All balances are payable to NASD Dispute Resolution and are due upon the receipt of the Award pursuant to Rule 10330(g) of the Code.

NASD Dispute Resolution
Arbitration No. 03-00815
Award Page 6 of 6

ARBITRATOR

Herbert Leslie Greenberg, Esq.

Public Arbitrator

Arbitrator's Signature

Herbert Leslie Greenberg
Herbert Leslie Greenberg, Esq.
Public Arbitrator

2/4/04
Signature Date

February 4, 2004
Date of Service