

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

MOHSIN M. SAID

Claimant

and

FIDELITY BROKERAGE SERVICES D/B/A
FIDELITY INVESTMENTS

Respondent

CASE NO. 88-01809

CASE SUMMARY

In a claim filed with the NASD on June 2, 1988, Claimant, Mohsin M. Said alleged that Respondent Fidelity Brokerage Services, Inc. violated its contractual and equitable obligations to claimant by unilaterally, without reasonable notice and in contradiction to past practice increased its margin requirements which Claimant was unable to meet and prevented claimant from purchasing options to balance his portfolio to prevent substantial losses in his account.

In its Answer filed with the NASD on October 26, 1988, Respondent states that its computer system had been mispricing option positions, which effectively overstated the equity in Mr. Said's account and understated the margin debit in his account. After discovering the error, Respondent generated margin calls in those accounts affected, including Claimant's. When Claimant failed to satisfy the correct margin requirements, positions in his account were liquidated. Respondent counterclaims for its actual attorneys' fees.

RELIEF REQUESTED

Claimant seeks an award against Fidelity Brokerage Services, Inc. in the amount of \$175,000.00 plus interest, fees and costs. Respondent requests that the Statement of Claim be denied and seeks an award of its costs including actual attorneys' fees incurred in the defense of this matter by way of counterclaim.

AWARD

On Monday, November 20, 1989 in Chicago, Illinois during a hearing lasting 2 sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on May 31, 1988 by Robert E. Litak on behalf of Claimant Mohsin M. Said, on October 25, 1988 by Robert P. Bramnik on behalf of Respondent Fidelity Brokerage Services, Inc.

The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has decided in full and final resolution of the issues submitted for determination as follows:

1. Fidelity is liable for and shall pay to the Claimant Mohsin M. Said the sum of Thirty Thousand Dollars and no cents (\$30,000.00);
2. The parties shall each bear any other costs and expenses not specified herein which were incurred in this matter; and
3. The counterclaim of Respondents shall be denied.
4. Pursuant to Section 43(b) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$750.00 filing fee previously deposited with the NASD by the Claimant. Respondent shall pay the NASD \$750.00 as additional forum fees.

By the Panel

Dated: 11/20/89 /S/ John W. Cooley
Presiding Chair

Dated: 11/20/89 /S/ Herbert Neuer, Esq.

Dated: 11/20/89 /S/ R. Marshall Barnes

Date Served: 11-22-89