

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Homer Schulz
Norma Schulz

Claimants

VS.

Fidelity Brokerage Services, Inc.

Respondent

Case #88-02139
Award

CASE SUMMARY

Claimants Homer and Norma Schulz alleged that they placed an order with Respondent Fidelity Brokerage Services, Inc. to buy stocks on October 21, 1987. Claimants allege that they placed a day, limit order. Claimants allege that this order was not executed and that unauthorized trades were made on October 26, 1987. Respondent allege that Claimants placed market orders and the Respondent properly executed the orders as given. Respondent counterclaims against Claimants for the return of 945 shares of Sears & Roebuck stock or the repurchase value of the stock plus payment for the debit balance that remains in the Claimants' brokerage account.

RELIEF REQUESTED

Claimants requested damages of \$73,213.00 plus the dividends received in lieu of interest on this amount. Respondents requested dismissal of the claims and damages of \$38,924.25 or the return of 945 Sears & Roebuck common stock.

AWARD

On June 20, 1989, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimants Homer and Norma Schulz on June 29, 1988, and by Respondent Fidelity Brokerage Services, Inc. on August 17, 1988. The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has determined in full and final resolution of the issues submitted for determination as follows:


1. Claimants' claim is denied in its entirety.
2. Claimants' are liable to the Respondent and shall return 945 shares of Sears & Roebuck stock and shall return the monies for all dividends received such that Claimants' are jointly and severally liable and shall pay to the Respondent the sum of Two Thousand Eight Hundred Seven and 50/100 Dollars (\$2,807.50) no interest is assessed on this amount.

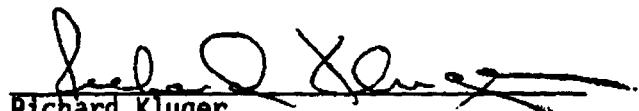
DATED: July 13, 1989

3. Pursuant to Section 43 (b) of the Code of Arbitration Procedure forum fees for the June 20, 1989 Double Hearing Session shall be assessed against the Respondent. The amount due from the Respondent as forum fees is \$400.00; this amount shall be made payable to the National Association of Securities Dealers, Inc.
4. The parties shall each bear their respective costs including attorneys' fees.
5. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$200.00 filing fee previously deposited by the Claimants.

ARBITRATORS CONCURRING


George R. Freund


Arnold L. Goren


Richard Kluger