

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Among	)	
Robert W. Weiss,	)	
	)	
Claimant	)	Case #88-03281
	)	
vs.	)	Award
	)	
Fidelity Investments and	)	
Pershing & Co.,	)	
	)	
Respondents	)	

CASE SUMMARY

The Claimant filed the above-captioned claim for arbitration on October 21, 1988. In the claim, he alleged that Fidelity Investments failed to execute his order, Good Till Cancelled, to sell Household International Put options at a price of 15 or better. Fidelity Investments maintained that the Claimant was advised by the Branch Manager that his order was not filled. Claimant did not receive a confirmation since the trade never cleared. Fidelity Investments further maintained that Pershing never timely advised Fidelity of the execution of the trade in question. All Fidelity knew was that Claimant's order to sell 15 Puts was still "open" and that was reported to the Claimant. Pershing & Co. does not deny receiving an order from Fidelity to sell 25 Puts at 15, Good Till Cancelled on October 20, 1987. Pershing & Co. maintained that the Claimant was advised as early as November 1988 of the non-execution of his order and he was obligated to mitigate his damages by selling the Puts at that time.

RELIEF REQUESTED

Claimant requested damages of \$21,729.00. Fidelity & Co. requested a dismissal of the claim or, in the alternative, if any liability is found against Fidelity that Pershing should be held liable to Fidelity. Pershing requested that any Award against it be limited to \$10,000.00 which represents the difference between the October 20th and the October 21st quoted market price.

AWARD

On November 1, 1989, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by the Claimant, Robert W. Weiss, on December 21, 1988, by Fidelity Investments on January 3, 1989 and by Pershing & Co. signed on December 19, 1988 and May 1, 1989. 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:

A. Fidelity Investments shall be liable for and shall pay to the Claimant the sum of Thirteen Thousand Thirty-Seven Dollars and Forty Cents (\$13,037.40);

B. Pershing & Co. shall be liable for and shall pay to the Claimant the sum of Eight Thousand Six Hundred Ninety-One Dollars and Sixty Cents (\$8,691.60);

C. The parties shall each bear their respective costs, including attorneys' fees where applicable;

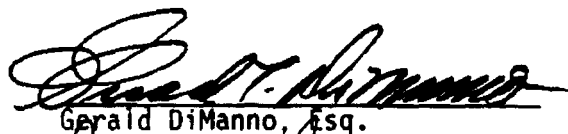
D. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$400.00 filing fee previously deposited by the Claimant.

E. Respondents are assessed forum fees in the amount of \$400.00 for the second hearing session payable to the NASD, Inc. through its staff administrator in accordance with Section 43 of the Code of Arbitration Procedure to be apportioned in the following manner:

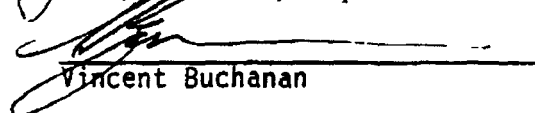
1. Fidelity shall be liable for and shall pay to the NASD, Inc. the sum of Two Hundred Forty Dollars and No Cents (\$240.00)

2. Pershing & Co. shall be liable for and shall pay to the NASD, Inc. the sum of One Hundred Sixty Dollars and No Cents (\$160.00)

ARBITRATORS CONCURRING:

  
Gerald DiManno, Esq.

  
Joseph Russell, Esq.

  
Vincent Buchanan

Dated: November 7, 1989