

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Kevin & Sally Lowery

Claimants

vs.

Fidelity Brokerage Services, Inc. Respondent

AWARD

CASE NO. 89-01918

Heard Before the Arbitration Panel:

Owen Guinn Smith

SUMMARY OF ISSUES

This case was filed on July 6, 1989. Claimants alleged that Respondent engaged in unauthorized trading in Claimant's account by covering a short position of five September calls of Blockbuster Entertainment stock and that Respondent refused to comply with the rules and regulations set forth by the SEC. Respondent alleged that Mr. Lowery instructed a Fidelity trading representative to execute the disputed order.

DAMAGES AND RELIEF REQUESTED

Claimants requested that: 1) Fidelity reinstate the position of five short September calls of Blockbuster Entertainment and provide to Claimants the sum of \$250.00 which covers the cost of arbitration, notary, and postage to dispute this trade; or 2) the disputed amount of \$6,450.60 plus \$250.00. Respondent asked that the claim be dismissed.

DAMAGES AND RELIEF AWARDED

On April 10, 1990 in San Francisco, California, the arbitrator heard the controversy in one session between the parties as set forth in submissions to arbitration signed by Claimants on June 28 and July 24, 1989, and by Respondent on August 28, 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:

1. Each and every claim of Claimants is dismissed.
2. The parties shall each bear their respective costs including attorneys' fees.
3. In accordance with Section 43 of the National Association of Securities Dealers, Inc. ("NASD") Code of Arbitration Procedure, the NASD shall retain the \$200 filing fee previously deposited by the Claimants as an assessment of forum fees by the arbitrator.

DATE SERVED: 04/19/90