

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant(s)

Richard & Annette Currier

89-02803

Name of Respondent(s)

Fidelity Brokerage Services, Inc.

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CASE SUMMARY

Claimants alleged that after instructing Respondents to purchase certain stocks on margin and after the Respondent followed the instructions, Respondent subsequently issued margin calls to the Claimants. Claimants alleged that they then instructed the Respondents to sell the aforementioned stocks, and Respondent did so creating a profit for the Claimants. Claimants alleged that Respondent then, without notice of intention, unilaterally cancelled the said transactions and seized the Claimants profit in the margin account. Claimants alleged that Respondents represented to them that they did not have to pay the margin calls because the stock represented had already been sold. Respondents maintained that the Claimants breached the terms of their contractual margin agreement, failed to remit funds to the Respondent for the margin calls, and assumed that they owned the stock at issue. Respondent further maintained that they never represented to the Claimants that they did not have to remit funds to the Respondent to pay for their margin calls.

RELIEF REQUESTED

Claimants requested that the Respondent be required to pay over to Claimants all profits seized from the Claimants' general margin account together with interest from the date of said seizure, costs and attorneys fees. Claimants further requested at least double or treble damages under the Consumer Protection Laws. Respondents requested that the claim of the Claimants be dismissed.

AWARD

On October 23, 1990 in Boston, Massachusetts, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by the Claimants Richard and Annette Currier on September 29, 1989 and by Respondent Fidelity Brokerage Services, Inc. on December 4, 1989. The initial Statement of Claim was filed on October 11, 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) Respondent Fidelity Brokerage Services, Inc. is liable and shall pay to the Claimants Richard and Annette Currier the sum of Twenty Nine Thousand Eight Hundred Fifty One Dollars and Fifty Five Cents (\$29,851.55). No interest is awarded.
- (2) The parties shall each bear their respective costs, including attorneys fees.
- (3) Pursuant to Section 43 of the Code of Arbitration Procedure, the NASD, Inc. shall refund \$200.00 of the \$400.00 initial filing fee deposited by the Claimant and hereby assesses \$200.00 against the Respondent Fidelity Brokerage Services, Inc. made payable to the NASD, Inc. as costs of the two hearing sessions conducted in this matter.

Arbitrator(s) Signature

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Bruce G. McNeill, Esq.

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Alvin J. Mantzel

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Theodore Turner

Dated: 11/13/90