

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Robert Prygrocki

JUN 23 1992

90-02353

Name of Respondents

First Interstate Discount Brokerage
Patrick Thompson

REPRESENTATION

Claimant, Robert Prygrocki was represented by M. Van Smith, Esq. of Mountain View, California.

Respondent, First Interstate Discount Brokerage was represented by Mary Beth Marshall, Esq. of Decker, Hardt, Kopf, Barr, Munsch & Dinan, Dallas, Texas.

Respondent, Patrick Thompson did not file an appearance.

CASE INFORMATION

The Statement of Claim was filed with the NASD on August 24, 1990.

Claimant's Submission Agreement was signed on August 21, 1990 by Robert Prygrocki.

The Statement of Answer was filed with the NASD by Respondent, First Interstate Discount Brokerage on November 22, 1991.

Respondent, First Interstate Discount Brokerage's Submission Agreement was signed on December 10, 1991 by Rodney D. Stell.

Respondent Patrick Thompson did not file either an Answer to the Claim or an executed Submission Agreement with the NASD.

HEARING INFORMATION

The hearing was held May 18, 1992 and lasted one (1) session.

The hearing location was Scottsdale, Arizona.

CASE SUMMARY

Claimant, Robert Prygrocki ("Prygrocki") alleged that he opened an options account on March 9, 1987 with Respondent, First Interstate Discount Brokerage ("First Interstate"). Prygrocki alleged that an Respondent, Patrick Thompson ("Thompson"), an employee of First Interstate, told Prygrocki that his account had been approved to trade options on June 13, 1987. On June 29, 1987, Prygrocki alleged that he placed an order to buy 300 July OEX put options contracts at a 295 strike price. Prygrocki alleged that another employee of First Interstate refused to accept the order and stated that the account had not been approved to trade options. Prygrocki alleged that he attempted to place the trade later in the day and was again refused.

First Interstate denied the allegations of the statement of claim and asserted that any claimed damages were highly speculative. First Interstate alleged that the account agreement executed by and between Prygrocki and First Interstate provided that First Interstate may refused to execute transactions in the event that there was a dispute over the authority to act. First Interstate alleged that such a dispute was evident from Prygrocki's allegations.

Thompson did not file an answer with an affirmative relief request for the arbitrators to consider.

RELIEF REQUESTED

Prygrocki requested recovery of the losses for non-execution of the trade, costs of the proceeding and expenses. Specifically, Prygrocki requested damages of \$95,625.00 which was the difference between the alleged Prygrocki's purchase of 300 July OEX puts at a 295 strike price at 1 12/16 to 1 13/16 and the sale price of the options at 5.

First Interstate requested dismissal of the claim, costs and expenses including attorney's fees.

OTHER ISSUES CONSIDERED & DECIDED

At the hearing on May 18, 1992, Claimant, Prygrocki, through his counsel moved to dismiss Respondent, Patrick Thompson who had neither answered the claim nor appeared for the hearing on May 18, 1992. The panel granted the motion to voluntarily dismiss Thompson as a party respondent in this matter.

The parties have agreed that the Award in this matter may be executed in

counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. The claim asserted against First Interstate by Prygrocki shall be and is hereby denied and dismissed in its entirety; and,
2. The parties shall each bear their own costs, attorney's fees and expenses other than Forum Fees which are enumerated below.

FORUM FEES

Pursuant to Section 43c of the NASD Code of Arbitration Procedure, ("NASD Code") the following Forum Fees are assessed. The NASD shall retain the non-refundable claim filing fee of \$150.00 and the Hearing session deposit in the amount of \$500.00 previously paid to the NASD by Prygrocki. No additional Forum Fees are assessed or owed by any party to the proceeding.

The Forum Fees were calculated on the basis of 1 hearing session at the rate of \$500.00 minus the hearing session deposit of \$500.00 = a net of \$0.00 due to the NASD

Concurring Arbitrators' Signatures

Name

Dated

Philip B. Whitaker
Philip B. Whitaker, Esq.
Presiding Chair/Public Arbitrator

June 19, 1992

Gleam Rosenthal, Esq.
Panelist/Public Arbitrator

Harold A. Shapiro
Panelist/Industry Arbitrator

Date award served by the NASD: 6-29-92

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