

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between :
Alan R. Childress :
Mary Ellen Childress :
Claimants :
vs. :
Fidelity Investments, Inc. :
Respondent :

CASE #91-02350
AWARD

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on July 31, 1991, Claimants Alan R. & Mary Ellen Childress who appeared Pro Se, alleged that Respondent, Fidelity Investments, Inc. failed to execute a sell order of 1,200 shares of Apple Computer as instructed, which caused a margin call letter to be sent to them. The Claimants further alleged that had the stock been sold, they would not have been forced to sell all of their stocks to cover the call.

Respondent, Fidelity Investments, Inc. through its representative, Jeffrey R. Larsen, maintained that the order to sell the Apple Computer stock could not be filled because of market conditions and therefore the Respondent cannot be subject to liability. The Respondent further maintained that the Claimants were not forced to sell all their other securities, since they could have deposited cash or marginable securities to cover the call which would have kept their holdings intact.

RELIEF REQUESTED

Claimants, Alan R. & Mary Ellen Childress requested \$9,794.63 in actual damages.

Respondent, Fidelity Investments, Inc. requested the claims of the Claimants be dismissed.

AWARD

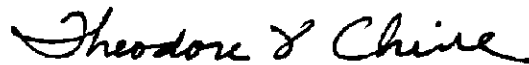
Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Theodore F. Chive, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on June 15, 1991 and by the Respondent on August 27, 1991.

And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The claims of the Claimants, Alan R. & Mary Ellen Childress against Respondent, Fidelity Investments, Inc. are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants shall be retained by the NASD, Inc.

AFFIRMATION

I, **THEODORE F. CHIVE**, do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.



Signature of Arbitrator

DATE OF DECISION: August 24, 1992