

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Christopher R. Carson

93-00898

Name of Respondent

Fidelity Brokerage Services, Inc.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on March 9, 1993, Claimant Christopher R. Carson, who appeared Pro Se, alleged that Respondent Fidelity Brokerage Services, Inc. failed to follow his instructions to sell 1,300 shares of Jamesway Corp. stock he had previously purchased through the Respondent. The Claimant contended that although he placed a "good till cancelled order" and the stock reached the correct sale price, the Respondent neglected to sell the shares, causing a loss for which the Respondent should be held liable.

Respondent Fidelity Brokerage Services, Inc. through its in-house counsel, Kenneth J. McDonald, Esq., maintained that the Claimant made an independent investment decision not to sell his shares and to place a series of limit orders instead. The Respondent further maintained that there are no assurances that a limit order will ever be filled at the limit price, and therefore, it cannot be held liable for the Claimant's investment decision.

In a reply to the Statement of Answer, Claimant Christopher R. Carson refuted the defenses of the Respondent and reiterated his request for compensation due to him.

RELIEF REQUESTED

Claimant Christopher R. Carson requested \$5,200.00 in actual damages, plus costs.

Respondent Fidelity Brokerage Services, Inc. requested that the claims of the Claimant be dismissed.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Raymond R. Prazen, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on March 23, 1993 and by the Respondent on June 2, 1993.

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 Claimant Christopher R. Carson against Respondent Fidelity Brokerage Services, 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 Claimant shall be retained by the NASD, Inc.

AFFIRMATION

I, **RAYMOND R. PRAZEN, ESQ.**, 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: December 1, 1993