

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

MTI Business Schools of Sacramento, Inc.

93-04170

Name of Respondent

Fidelity Brokerage Services, Inc.

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CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on October 11, 1993, Claimant MTI Business Schools of Sacramento, Inc. who appeared through its representative, John Zimmermann (CEO) alleged that Respondent Fidelity Brokerage Services, Inc. erroneously purchased 1,000 shares of U.S. Bancorp, Inc. for Claimant in Claimant's account, and that it asked Respondents' representative for the stock symbol for U.S. Bancorp and the Respondents' representative erroneously gave Claimant the symbol for U.S. Bancorp, Inc. which is a different stock. Claimant further alleged that Respondent has continually denied to correct the error, and that they should therefore be held liable in this matter.

Respondent Fidelity Brokerage Services Inc. through their representative, Carol S. Hobbs, Esq., maintained that Claimant failed to state a claim in this matter. The Respondent further maintained that Claimant placed an order to buy 1,000 shares of U.S. Bancorp symbol UBAN in Claimants' Fidelity Plus Brokerage account (#194-100994) through Fidelity on March 29, 1993. Respondent further maintained that they read back the order to Claimant and Claimant confirmed it, therefore Respondent executed the order. Respondent contended that Claimants' claim of purchasing U.S. Bancorp instead of U.S. Bancorp, Oregon, symbol USBS is without merit and should be dismissed. Respondent further contended that there was no "cover-up" by them in this matter. and thusly, that the claim is without merit and should be dismissed.

RELIEF REQUESTED

Claimant MTI Business Schools of Sacramento, Inc. requested an award for specific performance by removing from their account 1,000 shares of U.S. Bancorp, Inc. (UBAN) and

their account 1,000 shares of U.S. Bancorp(USBC), plus relief in the form of punitive damages of \$2,500.00.

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

### **AWARD**

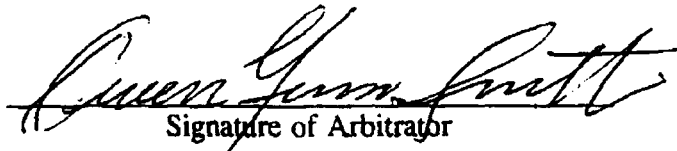
Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Owen Guinn Smith, Esq. was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on October 4, 1993 and by the Respondent on November 15, 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 Claimant MTI Business Schools of Sacramento, Inc. against Respondent Fidelity Brokerage Services, Inc. are dismissed in their entirety.
2. The Claimants request for punitive damages is denied.
3. The parties shall bear their respective costs.
4. The \$75.00 of this \$125.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant MTI Business Schools of Sacramento, Inc. shall be retained by the NASD, Inc.

### **AFFIRMATION**

I, OWEN GUINN SMITH, 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: April 8, 1994