

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Steven Z. Newman

93-04251

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 14, 1993, Claimant Steven Z. Newman, who appeared Pro Se, alleged that Respondent Fidelity Brokerage Services cancelled his order to sell 900 shares of Airborne Freight Corporation stock at 25 5/8, and failed to notify him of the cancellation in a timely manner. The Claimant also alleged that he was wrongly advised that the sale had gone through, and had he not contacted the Respondent to find out why his account reflected he still owned the stock, he would not have discovered the cancellation until 12 days after he placed the order. The Claimant contended that he later sold the stock at 23 1/2, and that the Respondent should be held liable for the difference.

Respondent Fidelity Brokerage Services, Inc. through its in-house representative, Carol S. Hobbs, Esq., Boston, MA, maintained that the initial sale of the 900 shares was executed in error, and when the error was discovered, the exchange cancelled the trade. The Respondent also maintained that it notified the Claimant in a timely manner regarding the cancellation, and that the Claimant was not entitled to the execution of his sell limit order on any exchange and therefore, the Respondent should not be held liable in this matter.

RELIEF REQUESTED

Claimant Steven Z. Newman requested \$1,912.50 in actual damages.

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, Gary M. Landau, 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 September 18, 1993 and by the Respondent on December 13, 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 Steven Z. Newman against Respondent Fidelity Brokerage Services, Inc. are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. The \$50.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc.

**AFFIRMATION**

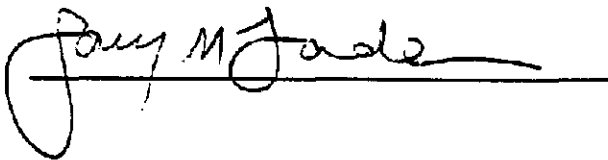
I, GARY M. LANDAU, ESQ., do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.

  
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Signature of Arbitrator

DATE OF DECISION: June 27, 1994

REPORT OF ARBITRATOR

The record is clear that on the date in question, July 1, 1993, that there were no bids at 25 5/8, which was the claimant's ask on that day. This transaction could not have been consummated for that reason, and the fact that a sale was reported is clearly an error, not the fault of respondent.

A handwritten signature in cursive script, reading "Gary M. Janda", is written over a horizontal line.