

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimants

Ronald J. Small  
CAC Corporation

CASE NO.

94-01539

Name of Respondent

Fidelity Brokerage Services, Inc.

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REPRESENTATION

Claimant, Ronald Small, ("Small") appeared pro se.  
For Claimant, CAC Corporation, ("CAC"), Mr. Ronald Small.

For Respondent, Fidelity Brokerage Services ("Fidelity"), Ann-Marie Dever, in house counsel.

CASE INFORMATION

Statement of Claim filed: April 20, 1994.  
Claimants' Submission Agreement signed on: May 23, 1994.

Statement of Answer filed by Respondent: July 15, 1994  
Respondent's Submission Agreement signed on: July 15, 1994.

HEARING INFORMATION

Pre-Hearing Conferences:      January 27, 1995 -      1 session  
   August 31, 1995 -      1 session

Hearing Date/Sessions:      September 28, 1995 - 2 sessions

Hearing Location:      Doubletree Hotel, Broad Street at Locust Street, Philadelphia, Pennsylvania.

CASE SUMMARY

Claimant states that on February 24, 1994, Ronald Small and CAC Corporation opened a Fidelity MF account with Fidelity Brokerage Services, Inc. Claimant alleges due to Respondents mishandling of Claimants' submitted paperwork, the CAC Corporation account was frozen. Claimant further alleges that checks for the CAC Corporation purchases of MFs were cashed with trades never executed.

Claimant asserts that mismanagement continued when Fidelity did not follow up its own research request

and then refused to accept a purchase order, which could have rectified the mistake.

Claimant further alleges that Fidelity overcharged the account of Ronald Small by \$3.32 a share for the purchase of the Evergreen Global R.E. Equity Trust ("Evergreen"). Claimant states Fidelity charged \$14.68 a share while the market price was \$11.32.

Respondent Fidelity Brokerage Services, Inc. states that the incorrect execution price of the Evergreen fund (\$751.366 shares at \$14.64 per share) was corrected when Claimant Small notified it the error. Fidelity corrected its mistake and Claimant suffered no monetary loss. Currently Mr. Small's account holds 971.731 shares at \$11.32 a share.

Fidelity states with regard to the CAC Corporation account, it did accept and deposit a CAC check, but did not execute the trade because Claimant had not provided the proper account paperwork to open a corporate account. Fidelity states its policy requires a Fidelity corporate resolution, where Claimant provided his own form of corporate resolution. Fidelity further states that when Claimant did not submit the proper corporate resolution, the account was restricted.

Fidelity states it eventually decided to accept Mr. Small's corporate resolution and offered him the trade on the original date or the current date. Mr. Small purportedly refused the offer and filed this arbitration.

Fidelity states that Mr. Small has suffered no damages and all claims should be dismissed.

#### **RELIEF REQUESTED**

Claimants requested \$5,000 in damages.

Respondent requested that all claims be dismissed.

#### **OTHER ISSUES CONSIDERED & DECIDED**

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 original remain on file with the NASD.

#### **AWARD**

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

1. Respondent Fidelity Brokerage Service, Inc. is liable to the Claimant, Ron Small, in the amount of \$373.34, as well as interest at 7% from the date of liquidation.
2. All claims of Claimant CAC Corporation and all other claims are denied.
3. Respondent Fidelity Brokerage Services, Inc. is liable for all forum fees.

**FORUM FEES**

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed.

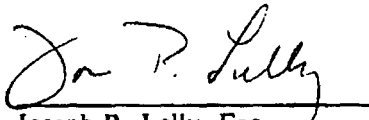
Nonrefundable Filing fee:	\$ 50.00
Hearing Session Deposit (\$75.00 x 2 sessions)	\$ 150.00
Pre-Hearing Conference (\$300.00 x 2 sessions)	\$ 600.00
Total Fees:	<hr/> \$ 800.00

Claimant paid \$150.00 and owes nothing.

Respondent owes \$150.00 payable directly to Claimant and \$650.00 to the NASD

Fees are payable to the National Association of Securities Dealers, Inc.

Concurring Arbitrators' Signatures  
Name

  
Joseph R. Lally, Esq.

Public

Date of Decision: January 2, 1996