

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Arthur Granfar, IRA

95-03690

Name of Respondent(s)

Fidelity Brokerage Services, Inc.
Kyle P. Washington

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on August 1, 1995 Claimant Arthur Granfar, who appeared Pro Se, alleged that Respondent Fidelity Brokerage Service Inc., through its registered representative, Respondent Kyle Washington overcharged his account when he executed a purchase order for the Claimant to buy 3,000 shares of ZITEL Corp. Stock. The Claimant contended that although he had originally placed a limit order to buy the stock at \$12 1/2, the order was not processed, and when he contacted Respondent Washington he was told the stock was trading at \$11 1/2. The Claimant also contended that he told the Respondent to buy the shares at the lower price, was placed on hold for ten minutes, and was then told the stock had already been bought at \$12 1/2. Claimant Arthur Granfar alleged that he has suffered damages because of the Respondents' actions, and therefore they should be held liable in this matter.

Respondent Fidelity Brokerage Services, Inc., and Kyle Washington, through their representative and in-house counsel, Suzanne R. Michaud, Esq., maintained that the trade was executed in accordance with Claimant's limit order to buy the stock at \$12 1/2, and further that it was explained to Claimant when he called for a status of the trade that he could only get the lower execution price if the trade had not yet gone through. Respondents also maintained that Claimant was told that the order might have gone through, but not have been reported to the Touch Tone Trader System as of their conversation. Respondents Fidelity Brokerage Services, Inc. and Kyle Washington contended that they committed no wrongdoing, that they acted professionally at all times, and that the claims against them should be dismissed.

RELIEF REQUESTED

Claimant Arthur Granfar requested \$3,000.00 in actual damages, plus unspecified punitive damages.

Respondents Fidelity Brokerage Services, Inc. and Kyle Washington requested that the claims of the Claimant be dismissed.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrator reviewed and considered the Motion to Dismiss Respondent Kyle Washington as a party to this action, along with the related documents. The motion is denied.

AWARD

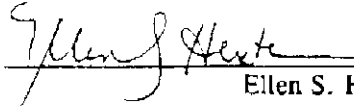
Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Ellen S. Hexter, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on July 28, 1995 and by the Respondent Kyle Washington on September 7, 1995 and by Respondent Fidelity Brokerage Services, Inc. on September 26, 1995.

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 Arthur Granfar, IRA against Respondents Fidelity Brokerage Services, Inc. and Kyle Washington are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. The \$125.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc.

AFFIRMATION

I, **Ellen S. Hexter**, 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.



Ellen S. Hexter

DATE OF DECISION:

April 17, 1996