

Award
NASD Regulation, Inc.

In the Matter of the Arbitration Between:

Gary C. Wykidal, Claimant v. First Liberty Investment Group, Inc., and Richard Towt,
Respondents

Case Number: 99-01141

Hearing Site: Los Angeles, California

REPRESENTATION OF PARTIES

For Claimant:

Gary C. Wykidal, Esq.
Gary C. Wykidal
& Associates
Costa Mesa, California

For Respondents First Liberty Investment Group, Inc. and
Richard Towt

Nicholas J. Guiliano, Esq.
Law Office of
Nicholas J. Guiliano
Philadelphia, Pennsylvania

CASE INFORMATION

Statement of Claim filed: March 9, 1999

Claimant's Uniform Submission Agreement signed: March 8, 1999

Statement of Answer filed by Respondent, First Liberty Investment Group, Inc.: April 14, 1999

Respondent First Liberty Investment Group, Inc.'s Uniform Submission Agreement signed:
April 14, 1999

Counterclaim filed by Respondent, First Liberty Investment Group, Inc.: April 14, 1999

Claimant's Response to Counterclaim filed: May 25, 1999

CASE SUMMARY

Claimant alleged the following causes of action: unsuitability and failure to execute stop loss order.

Respondent First Liberty Investment Group, Inc. denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim.

Respondent Richard Towt did not file a Statement of Answer.

Respondent First Liberty Investment Group, Inc.'s Counterclaim alleged the following causes of action: indemnity and filing a frivolous action under the securities laws.

Claimant denied the allegations of wrongdoing set forth in Respondent First Liberty Investment Group, Inc.'s Counterclaim.

RELIEF REQUESTED

Claimant requested \$7,500.00 in compensatory damages, interest and costs, and dismissal of Respondent First Liberty Investment Group, Inc.'s Counterclaim in its entirety.

Respondent, First Liberty Investment Group, Inc., requested dismissal of the Claimant's Statement of Claim in its entirety compensatory damages, punitive damages, interest, and reimbursement of costs and attorney's fees.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent, Richard Towt, did not file with the NASD Regulation, Inc. Office of Dispute Resolution a properly executed Uniform Submission Agreement to arbitrate. In accordance with membership rules of NASD, Respondent, Richard Towt, is nonetheless required to submit to arbitration of the matter.

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.

AWARD

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

- 1) Claimant's claims are denied in their entirety.
- 2) Respondent First Liberty Investment Group, Inc.'s Counterclaim is denied in its entirety.
- 3) Respondent First Liberty Investment Group, Inc.'s claim for punitive damages is denied.
- 4) Each party shall bear its own costs, including attorney's fees.
- 5) All other relief requested and not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Regulation, Inc. has received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 75.00
Respondent's First Liberty Investment Group, Inc. Counterclaim	= \$ 500.00

Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the event of the dispute. Accordingly, the member firm First Liberty Investment Group, Inc. is a party and the following fees are assessed:

<u>Member Surcharge</u>	<u>= \$ 300.00</u>
Total Member Fees	= \$ 300.00

Forum Fees and Assessments

The Arbitrator assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair. The fees are assessed for the Claimant at the customer rate of \$200.00 per hearing session and for the Respondents at the industry rate of \$300.00 per hearing session.

2 Pre-hearing conference sessions with a single arbitrator

Pre-hearing conferences:	September 3, 1999	1 session
	September 29, 1999	1 session

2 Hearing sessions

Hearings:	November 2, 1999	2 sessions
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1. The Arbitration Panel has assessed 50% of the applicable forum fees at the customer rate of \$200.00 per hearing session. Claimant Gary C. Wykidal shall pay \$400.00 of the forum fees to NASD Regulation, Inc.
2. The Arbitration Panel has assessed 50% of the applicable forum fees at the industry rate of \$300.00 per hearing session. Respondents First Liberty Investment Group, Inc. and Richard Towt are jointly and severally liable for \$600.00 of the forum fees.

Fee Summary

1. Claimant, Gary C. Wykidal, is charged with the following fees and costs:

Initial Filing Fee	= \$ 75.00
<u>Forum Fees</u>	= \$ 400.00
Total Fees	= \$ 475.00
<u>Less payments</u>	= \$(275.00)
Balance Due NASD Regulation, Inc.	= \$ 200.00

2. Respondent, First Liberty Investment Group, Inc., is charged with the following fees and costs:

Counterclaim Filing Fee	= \$ 500.00
<u>Member Fees</u>	= \$ 300.00
Total Fees	= \$ 800.00
<u>Less payments</u>	= \$(1,100.00)
Refund Due Respondent	
First Liberty Investment Group, Inc.	= \$ 300.00

3. Respondents, First Liberty Investment Group, Inc. and Richard Towt are jointly and severally charged with the following fees

Forum Fees	= \$ 600.00
Less Payment by Respondent,	
<u>First Liberty Investment Group, Inc.</u>	= \$(600.00)
Balance Due	= \$ 0.00

All balances are payable to NASD Regulation, Inc. and are due within 30 days of the award's date of service.

Arbitrator's Signature


Herbert Leslie Greenberg, Esq.
Chair, Public Arbitrator

11/2/99
Signature Date

11/3/99
Date of Service