

N.A.S.D. REGULATION AWARD
NATIONAL ASSOCIATION OF SECURITIES DEALERS REGULATION, INC.

CASE: 99-01234

Ronnie Yarborough IRA, claimant vs. Discover Brokerage Direct, Inc., respondent.

ATTORNEYS:

Claimant, Ronnie Yarborough, appeared Pro Se., Mabolvali, AR.

Respondent, *Discover Brokerage Direct, Inc.*, appeared through its In-House Counsel, Judith M. Rosenberg, Esq., San Francisco, CA.

DATE FILED: 03/16/99

CASE SUMMARY: Claimant alleged that on November 28, 1998 claimant placed an order for 1800 shares of CDNow (CDNW) stock with respondent. When claimant did not receive a purchase confirmation from respondent claimant tried unsuccessfully to contact respondent. Claimant later discovered that respondent credited to claimant's account 1800 shares of CDNW. The value of the stock had declined from the purchase price of 27 3/8 to 15 3/4 per share by the time claimant had control of the stock. Claimant maintained that this represented a loss of approximately \$21,000.00 in claimant's IRA account. Further, this loss would have been less if claimant had been afforded the ability and the right to place a sell stop order on the stock.

On December 2, 1998 claimant purchased 680 shares of Wal-Mart (WMT) stock that used all of the funds available in claimant's account. The shares of CDNW stock had not been credited to claimant's account at that time or the purchase of the WMT stock order would not have executed because of insufficient funds.

Following these events, respondent liquidated 639 shares of claimant's 680 shares of WMT stock on December 10, 1998 to pay for the CDNW stock. Claimant alleged that as a result of respondent's failure to void claimant's sell order of CDNW claimant incurred an unnecessary loss, which occurred because due diligence was not afforded to claimant in the transaction by respondent.

Claim Data

Claim: \$24,500.00

Filing Fees: \$.00

Award Data

Award: \$5,000.00

Filing Fees: \$150.00

AWARD: The undersigned arbitrator has decided and determined in full and final resolution of the issues submitted for determination as follows: 1) Respondent is liable and shall pay to the claimant \$5,000.00. 2) The \$150.00 filing fee previously deposited with the National Association of Securities Dealers Regulation, Inc. by the claimant, shall be retained by NASD Regulation, Inc. 3) Respondent is liable and shall pay claimant \$150.00 as reimbursement of the filing fee.

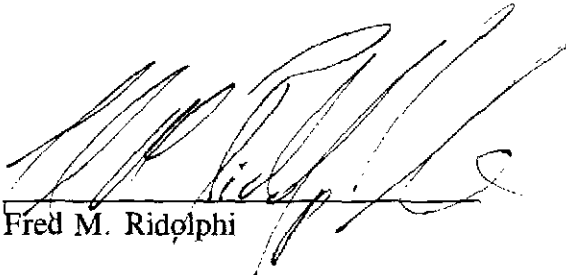
OTHER FEES: Pursuant to Rule 10333 of the Code, respondent has paid to NASD Regulation, Inc. the \$400.00 Member Surcharge previously invoiced.

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OTHER ISSUES: The Arbitrator denied respondent's request to dismiss claimant's claim in its entirety and request that all costs and fees associated with this arbitration be borne by claimant; and for such other and further relief as may be equitable under the circumstances.

AFFIRMATION

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



Fred M. Ridolphi

January 7, 2000
Date of award