

**IN ARBITRATION  
UNDER CHAPTER XVIII OF THE RULES  
OF THE CHICAGO BOARD OPTIONS EXCHANGE, INCORPORATED**

_____	)	
In The Matter Of	)	
	)	
Customer*,	)	
	)	
Claimant,	)	DECISION
	)	
v.	)	File No. 98NM005
	)	
Norwest Brokerage Direct,	)	
	)	
Respondent.	)	
_____	)	

**Representation**

For Claimant:           Pro Se  
For Respondent:        Sherri Hallerman Gould, Norwest Corporation, Minneapolis, MN

**Pleadings**

Statement of Claim, filed on or about:	April 9, 1998
Claimant's Submission Agreement, filed on or about:	May 6, 1998
Answer and Submission Agreement, filed on or about:	June 3, 1998
Claimant's Response to Answer, filed on or about:	July 10, 1998

**Simplified Arbitration**

Pursuant to Chicago Board Options Exchange, Incorporated ("Exchange") Rule 18.4, Simplified Arbitration, the claim was decided by a single public arbitrator knowledgeable in the securities industry solely upon the pleadings and evidence filed by the parties. The named parties had full opportunity to present written arguments and evidence for consideration by the agreed upon public arbitrator.

**Summary of Issues**

The dispute, claim or controversy involves the execution of a limit order to buy one March 1050 S&P 500 put option contract on February 27, 1998. The claim asserted involves the following issues:

- Issue 1. Does an on-line options brokerage house which accepts an Internet customer's mid-day telephone order (due to its own Internet system failure) have the responsibility to post a filled limit-order to the customer's Internet account by a reasonable time after the end of the trading day? YES
  
- Issue 2. Does an Internet on-line customer, who places by telephone a one-day limit-order to buy one put option on the S&P 500 Index at 5/8 below the current market, act with reasonable reliance in concluding that the order has expired without a fill when (a) no transaction is posted to his Internet account within 6 hours or more after market

closing, and (b) where closing prices (though no intraday prices) show the same 5/8 spread between the limit-order and the market at closing? YES

Issue 3. Can an on-line brokerage house defend an Internet system malfunction that, unknown to the customer, results in delayed posting by an overnight third-party service? NO

Issue 4. When, through fault of his broker, the customer is unaware of his market exposure on an out-of-the-money put, can the customer recover any resulting loss from the broker? YES

Claimant requests that Respondent "bust" the trade and reimburse him for his losses.

### **Award\***

After due deliberation and consideration of the pleadings, documentary evidence, and other submissions of the parties, the undersigned arbitrator, in full and final settlement of all issues in controversy, awards as follows:

Claimant should be restored to the equivalent of his margin account balance of \$1,315 prior to the transactions.

This should be accomplished in either of the following ways:

- (1) Respondent pays \$1,315 plus Claimant's forum fees in the amount of \$50 to Claimant and cancels the margin account deficiency of \$212.68; or
- (2) Respondent pays \$1,252.76 plus Claimant's forum fees in the amount of \$50 to Claimant and credits the sell-off proceeds of \$275 against the margin account deficiency of \$212.68, leaving a favorable margin account balance of \$63.

Alternative (1) seems to me to be the more understandable way in which to proceed.

### **Forum Fees**

Pursuant to Exchange Rule 18.33, the Arbitrator assesses forum fees in the total amount of \$50.00 against Respondent, as set forth above. The Exchange shall retain the non-refundable filing fee in the amount of \$25.00 and the simplified hearing deposit in the amount of \$25.00, previously submitted to the Exchange by Claimant.

/s/ John T. Kelly  
John T. Kelly, Public Arbitrator

09/17/1998  
Date

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\* Pursuant to CBOE Rule 18.31, all monetary awards shall be paid within thirty (30) days of receipt unless a motion to vacate has been filed with a court of competent jurisdiction.