
AWARD FINRA DISPUTE RESOLUTION CASE: 11-00018

Jan E. Harris-Kimball, Jan E. Harris-Kimball ROTH IRA, and Jan E. Harris-Kimball

Traditional IRA (Claimants) vs. Scottrade Inc., A wholly-owned subsidiary of Scottrade

Financial Services, Inc. (Respondent)

REPRESENTATION OF PARTIES:

For Claimants appeared Jan E. Harris-Kimball, Philomath, OR.

For Respondent appeared Niels P. Murphy, Esq., Murphy & Anderson, P.A.,

Jacksonville, FL.

NATURE OF DISPUTE: Customers vs. Member

DATE FILED: December 29, 2010

CASE SUMMARY: Claimants asserted the following cause of action: breach of contract.

The cause of action relates to Bancorp International Group, Inc. common shares.

ARBITRATOR'S REPORT: Claimant, Jan E. Harris-Kimball, represents herself and seeks damages from Respondent because it has not delivered share certificates of Bancorp International Group Inc. [BCIT] owned by her and her IRA accounts. Respondent characterizes the relief sought as inexplicable and, to persons professionally familiar with the workings of the financial industry, it is. Unfortunately for Claimant, Jan E. Harris-Kimball, it is also inexplicable to any person who reads the Scottrade Brokerage Agreement that she signed.

Respondent is correct. Claimant, Jan E. Harris-Kimball, was a self-directed investor. She chose to buy BCIT. Respondent did not make that choice for her. Any resultant losses are because of her choice, not a choice made by Respondent.

Claimants now seek delivery of the BCIT shares. Respondent is not wilfully refusing to deliver the shares. It cannot deliver the BCIT shares because of the actions of a third party, the Depository Trust & Clearing Corporation [DTCC], which placed a "global lock" on BCIT, shares on August 16, 2005. The global lock means that the subject shares are not eligible for delivery, transfer or withdrawal by any person or entity.

The Scottrade Agreement specifically provides that Respondent will not be liable for any loss caused directly or indirectly by suspension of trading of a stock such as that of BCIT.

When she signed the Scottrade Agreement, Claimant, Jan E. Harris-Kimball, assumed the risk that BCIT shares would lose value and, for that matter, that trading in the BCIT shares could be suspended. Because trading has been suspended Respondent cannot deliver the shares that Claimants seeks. Claimants also assumed this risk that results from the suspension of trading in BCIT.

Respondent has no liability for either loss of value or the suspension of trading and the global lock. The relief that Claimants seeks is denied.