

FINRA DISPUTE RESOLUTION

In the Matter of the Arbitration between)
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Laurent J. La Brie) FINRA-DR Case Number 11-03725
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Claimant,)
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vs.)
)
)
TD Ameritrade, Inc. and)
Scott Allen Cornett)
)
)
Respondents.)
)

**RESPONDENTS, TD AMERITRADE, INC. AND SCOTT ALLEN CORNETT
OBJECTIONS AND RESPONSES TO CLAIMANT’S FIRST REQUEST FOR
DOCUMENTS AND INFORMATION**

COMES NOW Respondents, TD Ameritrade, Inc. and Scott Allen Cornett respectfully submit the following Objections and Responses to Claimant’s First Request for Documents and Information.

GENERAL OBJECTIONS

1. Respondents object to each Request to the extent that Claimant has requested documents and/or information which are overly burdensome and unduly excessive.
2. Respondents object to each Request to the extent it seeks information or documents which are not relevant to the subject matter of this action or reasonably calculated to lead to the discovery of admissible evidence.
3. Respondents object to each Request to the extent it seeks information or documents regarding or containing information about persons or entities other than the parties to the action for the reason that such information or documents are not relevant to

the subject matter of the pending action or reasonably calculated to lead to the discovery of admissible evidence.

4. Respondents object to each Request to the extent it seeks documents or information that are protected from disclosure by the attorney-client privilege and/or the work product doctrine and such information will be withheld. Respondent objects to each Request to the extent that it calls for proprietary information, trade secrets, and/or confidential information.

5. Respondents object to each Request to the extent that it is not specific or does not relate to the matter in controversy.

6. Respondents object to each Request to the extent it requires the production of original documents; Respondents reserve the right to maintain custody and control of said originals for the purpose of preserving and safeguarding historical information.

7. The general objections set forth herein are applicable to each Response to the Request. Respondents assert every privilege to which it is entitled, and any production or disclosure of information does not constitute a waiver of such privileges.

8. Respondents have conducted a good faith search to identify, gather and produce documents responsive to the Request, which it intends to produce in accordance herewith. Respondents reserve the right to supplement these responses.

SPECIFIC OBJECTIONS AND RESPONSES

All responses below are subject to the above-stated General Objections, as well as any specific objections set forth in connection with a specific Request.

REQUEST NO. 1: Monthly statements for my account for September 2008 through April 2009 (Per FINRA List 1 Par. 2).

RESPONSE: See Answer to Statement of Claim – Exhibit #4 (Account Statements January-March of 2009). Respondents also produce the enclosed documents.

REQUEST NO. 2: Confirmations for my purchase of the UDR Puts with a strike price of \$25 made on or about October 27, 2008, the exercise of the Puts on or about January 16, 2009, the short of UDR at the same time, and the covering of the short position on or about March 17, 2009 (Para. 2).

RESPONSE: See Answer to Statement of Claim – Exhibit #5 (UDR Trade Confirmations October of 2008-January of 2009).

REQUEST NO. 3: Documentation from the clearing company or other source that shows who wrote the UDR Puts I purchased on or about October 27, 2008 (Per rule 10321(b)).

RESPONSE: Respondents object on the grounds that the request is irrelevant, and outside the scope of the matter at controversy.

REQUEST NO. 4: Documentation from the clearing company or other source that show who bought the shares I sold short on or about January 16, 2009 and the source of the money that was placed in my account when the transaction was made (Per Rule 1031(b)).

RESPONSE: Respondents object on the grounds that the request is irrelevant, outside the scope of the matter at controversy.

REQUEST NO. 5: Transaction records of any other client (including the last four numbers of their account numbers) that, during any time in the month of January, 2009, in their TD Ameritrade account bought or sold UDR January Puts or Calls with any strike price, regardless of whether the transaction records show that the option was exercised or that it was permitted to expire (Per Rule 1321(b)).

RESPONSE: Respondents object on the grounds that the request is irrelevant, outside the scope of the matter at controversy, and information that is protected as proprietary and/or confidential.

REQUEST NO. 6: Transaction records of any other TD Ameritrade account in which, during any time in the month of January, 2009, bought or sold short shares of UDR (Per Rule 10321(b)).

RESPONSE: Respondents object on the grounds that the request is irrelevant, outside the scope of the matter at controversy, and seeking information that is protected as proprietary and/or confidential.

REQUEST NO. 7: Documentation which shows the names and telephone numbers of all contacts, including myself and my mother, Elizabeth Reitz La Brie, which I provided to TDA regarding my account (Para. 1 (a)).

RESPONSE: Respondents object on the grounds that the request is overbroad as to the matter at controversy. While not completely responsive, See Answer to Statement of Claim Exhibit #1 (Account application), and Exhibit #3 (Call Notes). Without waiving its objection, Respondents also produce the attached notes and change of address request documents.

REQUEST NO. 8: Documentation which shows the efforts made to contact the contacts I provided to TDA regarding the trades of my UDR options, selling short of the stock and covering the short. This list should include, name of the person attempting to call, date and time of attempt, and results, such as “no answer”, “line busy”, “left message”, or “contacted.” Include a copy of the telephone recording of the employee dialing and the response on the other side of the telephone line. (Par.8).

RESPONSE: Respondents object on the grounds the request is asking that a document be tailored and/or created for the purpose of discovery. Without waiving its objection, see Answer to Statement of Claim Exhibit #3 (Call Notes).

REQUEST NO. 9: Any policy or other written directive to TDA's employees/brokers during the period of October 27, 2007 to January 16, 2010 stating the instructions to brokers regarding and "in the money" option transaction, notification of clients about options issues and pending expirations, as wells as those specifically regarding the UDR options (Paras. 5(a), 9, and 11).

RESPONSE: Not applicable; accounts at TD Ameritrade are self-managed. While not specifically responsive, see Answer to Statement of Claim Exhibit #7 (Margin Account Handbook).

REQUEST NO. 10: Any policy or other written directive to TDA's employees/brokers in force during the period of October 27, 2007 to January 16, 2010 stating what research should be done and what information should be given a client when he/she calls regarding changes to the symbol for an option as well as those policy or directive specifically regarding the UDR options (Paras. 5(a), 9, and 11).

RESPONSE: Not applicable; accounts at TD Ameritrade are self-managed. While not specifically responsive, please see Answer to Statement of Claim Exhibit #1 (Account Application), Exhibit #2 (Client Agreement), and Exhibit # 7 (Margin Account Handbook).

REQUEST NO. 11: Communication dated prior to March 17, 2009 of how you informed me that the UDR short position was only in "book entry form" or of any different status than my other shorts therefore any less complete, variable, or dependable than any other short I have taken in my account, including the EIHI short position that appeared identically in the same February 2009 statement from TD Ameritrade, yet was not reversed by TD Ameritrade (Para. 5(a)).

RESPONSE: Not applicable; accounts at TD Ameritrade are self-managed. While not specifically responsive, please see Response #10.

REQUEST NO. 12: A document providing to me showing any other occasion (other than the UDR options in question) when current prices were not given for options with no trading volume (Para. 2).

RESPONSE: Respondents object on the grounds that the request is irrelevant and overbroad as to the matter at controversy. Without waiving its objection, Respondents has no responsive documents.

REQUEST NO. 13: Written communications to customers dated prior to March 17, 2009 that explains the period of no trading volume at which time TDA stops giving current prices (e.g. over one trading day, over one week) (Paras. 5(a) and 9).

RESPONSE: Not applicable; accounts at TD Ameritrade are self-managed. While not specifically responsive, please see Response #10.

REQUEST NO. 14: Written communications explaining to customers how TD Ameritrade defines a “book entry” transaction or the difference between that and any other short transaction. Include any communication made specifically to me outlining the risks of book entry transactions, including date and time of such communication (Paras. 5(a), and 9).

RESPONSE: Not applicable; accounts at TD Ameritrade are self-managed. While not specifically responsive, please see Response #10.

REQUEST NO. 15: Written communication explaining to customers what OCC memos are, how to receive them, and whom at TD Ameritrade to contact to discuss them (Paras. 5(a), and 9).

RESPONSE: Not applicable; accounts at TD Ameritrade are self-managed. While not specifically responsive, please see Response #10.

REQUEST NO. 16: Notes made by TD Ameritrade and all other communications to me regarding these transactions, including, but not limited to telephone recordings, electronically transmitted messages, and posted documents (Paras. 2, and 8).

RESPONSE: Respondents have produced the enclosed account notes and recorded calls limited to the events at issue. If additional recordings of specific telephone calls are requested, Claimant should make a specific request, supplying the date and time of any alleged conversation and the name of the representative who took part in the conversation.

REQUEST NO. 17: All internal communications and supervisory reports regarding these transactions, including but not limited to recordings of the conversation between staff members and Scott Cornett (Paras. 6, and 13(a)).

RESPONSE: See Response #16.

REQUEST NO. 18: Per FINRA List 1 Paras. 5(a), 7, 9, 15, and 16, any correspondence with the compliance department and reprimand, discipline, or additional training given to person in response to:

- their giving me misinformation that my account was not displaying quotes on my UDR Puts because they were thinly traded and/or
- the failure to notify me of the changes to UDR options as was recommended by the January 16, 2009, OCC Memo #25370.

RESPONSE: Respondents object on the grounds that the request is argumentative and seeks information based on facts not in evidence.

REQUEST NO. 19: Those portions of internal audit reports for the branch in which my account was maintained that (a) concern associated persons or my account or the transactions at issue; and (b) were generated during the period of October 27, 2007 to

January 16, 2010, and discussed alleged improper behavior in the branch against other individuals involving unjust enrichment, removing funds without a client's authorization, misrepresenting or failing to disclose material facts concerning an investment, or failure to exercise an option that was in the money (Para. 14).

RESPONSE: Respondents object on the grounds that the request is argumentative and seeks information based on facts not in evidence. Without waving its objection Respondents assert the request is not applicable; accounts at TD Ameritrade are self-managed.

REQUEST NO. 20: All investigations, charges, or findings by any regulator (state, federal or self-regulatory organization) and the firm/associated persons' responses to such investigation, charges, or findings for the associated persons' alleged improper behavior involving unjust enrichment, removing funds without a client's authorization, misrepresenting or failing to disclose material facts concerning an investment, or failure to exercise an option that was in the money (Paras. 15, and 16).

RESPONSE: Respondents object on the grounds that the request is overbroad as to the matter at controversy, irrelevant, and requests confidential information. Without waving its objection, Respondents produce the attached U4 and U5 information.

REQUEST NO. 21: Those portions of examination reports or similar reports following an examination or an inspection conducted by a state or federal agency or a self-regulatory organization that focused on the Associated Person(s) or the transaction(s) at issue or that discussed alleged improper behavior in the branch against other individuals involving unjust enrichment, removing funds without a client's authorization, misrepresenting or failing to disclose material facts concerning an investment, or failure to exercise an option that was in the money (Para. 17).

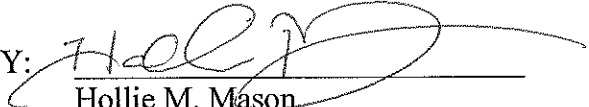
RESPONSE: Respondents object on the grounds that the request is argumentative and assumes facts not in evidence. Respondents also object on the grounds that the request is overbroad as to the matter at controversy, burdensome, and irrelevant. Without waiving any objection, see Response #20.

REQUEST NO. 22: Any disciplinary action against Scott Cornett by any employer regarding providing misinformation or failure to provide materially relevant information to a client (Para. 16).

RESPONSE: Respondents object on the grounds that the request is overbroad as to the matter at controversy. Without waiving its objection, see Response #20.

Dated this 30th day of December, 2011.


BY:


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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing pleading was mailed by United States Parcel Service, postage prepaid and properly addressed to the following individual(s) on this 20th day of December, 2011.

Andrew Jiranek
c/o Laurent J. La Brie
16 Willow Avenue
Baltimore, MD 21286


Maryann Allen