



March 1, 2012

FINRA Dispute Resolution
Attn: Lisa D. Lasher
Boca Center Tower 1
5200 Town Center Circle
Suite 200
Boca Raton, FL 33486

RE: FINRA Dispute Resolution Arbitration Number 11-03725
Laurent J. La Brie vs. TD Ameritrade and Scott Allan Cornett

Dear Ms. Lasher:

Please find enclosed an original plus one copy of Respondent's, TD Ameritrade, Inc. and Scott Allen Cornett's Opposition to Claimant's Motion to Compel Discovery. Please forward the enclosed document to the Arbitrator for his consideration.

As directed, one copy of the Respondent's Opposition has been mailed to counsel for the Claimant.

If you have any questions, please do not hesitate to contact me directly at the number listed below. Thank you.

Sincerely,

A handwritten signature in cursive script that reads 'Maryann Allen'.

Maryann Allen, Senior Paralegal
On Behalf of Hollie M. Mason
TD Ameritrade, Inc.
(402) 574-6031

cc: Andrew L. Jiranek, Esq.
Jiranek Company, P.A.
16 Willow Ave
Towson, MD 21286



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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. To date Respondent has produced over 200 pages of documents in response to Claimant's discovery request in an effort to facilitate the discovery process. Respondent asserts that the below objections are in fact applicable. For ease of use, Respondent has included Claimant's original discovery Requests along with Respondent's respective Responses.

Oppositional responses are represented by both the Respondent's original objections and any additional comments listed below its Response in bold.

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.

Respondent objected to the production of this information as it requires Respondent to provide confidential information of a non-party participant and to request information from a third party "source", who is not a party to the arbitration.

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.

See comments to Request #3

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.

TD Ameritrade has certain legal and regulatory obligations to its client's regarding the confidentiality of account information. A confidentiality agreement with opposing counsel does not supersede those obligations. It is well established that Respondent is not required to produce non-party account information.

In addition, the production of the requested information, or lack thereof, would require Respondent to investigate, distinguish, and defend each and every trade as those trades may or may not have been placed under different circumstances or situations. The production of any information regarding other accounts is overly burdensome to the Respondent.

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).

Respondent has not refused to provide information in fact it has produced its internal phone logs limited to the matters in controversy. Respondent should not be required to perform the burdensome task of seeking out a third party to obtain information in a format that it does not utilize as a business record. If Claimant has questions about the validity of the information provided they have the option of questioning the person who provided the information and the Panel can decide its validity.

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).

Not applicable was used in this instance as opposed to stating that no documents exist in an attempt to be completely accurate. Any procedures or written directives that may exist do not pertain to Claimant’s account.

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).

See Response #9 comments.

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.

See Response #9 comments.

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.

See Response #9 comments.

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.

See Response #9 comments.

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.

Because phone recordings are difficult to retrieve and calls are not required to be recorded, Respondent has provided its call logs, used in the ordinary course of business to document recorded calls, which list the calls it may have recordings of so that Claimant can provide us with more specific information regarding the request. Respondent had not received a specific request for phone recordings based on the information provided and has provided a number of calls limited to the matter in controversy.

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.

Respondent does not believe the Claimant was given miss information nor did it fail to notify the Claimant of anything, therefore Respondent renews its objection to this request.

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.

Respondent objects as Claimant's account is not assigned or serviced by a particular Branch and as Claimant's account is self-directed no particular associate or associated person is assigned to service a self-directed account. In addition, Respondent does not stipulate that these events occurred and therefore objected based on the form of the Request. Respondent has produced Scott Cornett's FINRA complaint history report.

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 waiving its objection, Respondents produce the attached U4 and U5 information for Scott Cornett.

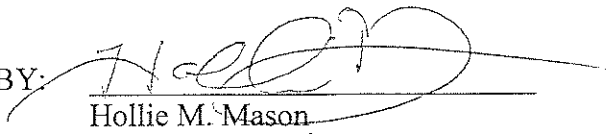
See comments to request #19

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.

See comments to request #19

Dated this 3rd day of March, 2012.

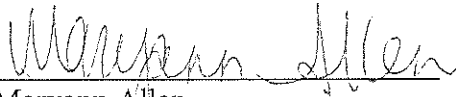
BY: 

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Attorney for TD Ameritrade, Inc.

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 1st day of March, 2012.

Andrew L. Jiranek, Esq.
Jiranek Company, P.A.
16 Willow Ave
Towson, MD 21286



Maryann Allen