

Notes:

Duty to Sell.—A broker is bound to follow his client's instructions to sell implicitly and to sell at the price named as soon as such price is reached, or if the instructions be to sell at the market price to sell at once, upon receipt of the instructions: *Galigher v. Jones*, 129 U.S. 193.

A broker must carry out instructions received in respect of time, price, number of shares and place to the very letter and must not only act in the utmost good faith, but must exercise reasonable skill, caution and prudence: Lindley on Company Law, 5th edition, page 511; *Smith v. Bouvier*, 70 Pa. St. 325.

The fact that a client's margins have become exhausted does not alter his right to instruct a sale, and this principle has been carried to the length in some jurisdictions that a broker must follow instructions to sell and invest the proceeds in the purchase of other shares, even though the balance due to himself at the time for advances is greater than the value of the stocks ordered to be sold: *Galigher v. Jones*.

Authority to sell exists until countermanded or revoked either expressly or by implication, but in this as in all other matters in connection with the relation between broker and client, regard must be had to the usage and course of dealing between the parties. Should the broker fail to follow instructions to sell as and when directed, the margins placed in his hands may be recovered by the client in an action of assumpsit: *Jones v. Marks*, 40 Ill. 313.

The fact that a stop order or other order in writing to sell has been placed with broker, does not prevent either of the parties from giving verbal evidence to shew that the written order was modified by a subsequent verbal arrangement or understanding: *Clarke v. Meigs*, 10 Bosw. (N.Y.) 337.

It has been held that a broker cannot sell stock upon credit as that is not in the usual course of business, and where it is apparent that the ordinary course of dealing is to sell for cash only, a broker will be responsible to his client for any loss resulting from a sale upon credit: *Wiltshire v. Sims*, 1 Campbell 258; *Baring v. Corie*, 2 B. & Ald. 137; *Brown v. Boorman*, 11 Cl. & Fin. 1.

Apart from such usage or course of dealing, there is no duty on the part of a broker selling stock to obtain payment for his client.