

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Christopher R. White, (Claimant) vs. Fidelity Brokerage Services LLC, (Respondents)

Case Number: 02-05020

Hearing Site: Boston, Massachusetts

REPRESENTATION OF PARTIES

Claimant, Christopher R. White, hereinafter referred to as "Claimant", appeared *pro se*.

Respondent, Fidelity Brokerage Services LLC, hereinafter referred to as "Respondent":
Colleen A. Hankins, Esq., Legal Counsel, Fidelity Investments, Boston, MA.

CASE INFORMATION

Statement of Claim filed on or about: August 21, 2002.

Claimant signed the Uniform Submission Agreement: September 25, 2002.

Statement of Answer filed by Respondent on or about: November 5, 2002.

Respondent signed the Uniform Submission Agreement: October 16, 2002.

CASE SUMMARY

Claimant asserted the following causes of action: failure to execute; breach of fiduciary responsibility; and failure to act in Claimant's best interests. Claimant's claim involved Aventis warrants.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses: Claimant has failed to state a claim upon which relief may be granted; Claimant has not suffered any damages as a result of any acts or failures to act by Respondent; Claimant expressly ordered, approved, authorized, consented to, participated in, and ratified the acts and transactions complained of and upon which recovery is sought; if Claimant suffered any damages, any such damages resulted solely from his own acts or omissions and/or the acts or omissions of third persons for whom Respondent is not responsible; Claimant's claims are barred because he failed to take action to mitigate the damages he claims to have suffered; at all times, Respondent acted in good

faith by complying with the New York Stock Exchange's directive and at no time did it commit, directly or indirectly, any acts which would give rise to a valid claim by Claimant; Respondent acted reasonably in attempting to contact Claimant to inform him that only cash trades could be accepted; and in Massachusetts, punitive damages are not allowed unless expressly authorized by statute.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$6,000.00, plus punitive damages in the amount of \$3,000.00.

Respondent requested:

- a. That Claimant's claims be denied;
- b. That Respondent be awarded its reasonable fees and costs incurred in connection with this matter; and
- c. That Claimant be ordered to pay all administrative costs and fees.

OTHER ISSUES CONSIDERED AND DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent is liable for and shall pay to Claimant the sum of \$6,000.00 as compensatory damages.
2. Each party shall bear its own costs and attorneys' fees, if any.
3. Claimant's request for punitive damages is hereby denied.
4. All other requests for relief are hereby denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$ 75.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person at the time of the events giving rise to the dispute. In this matter, Fidelity Brokerage Services LLC is a party.

Member surcharge = \$325.00

Forum Fees and Assessments

The Arbitrator assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrator, including a pre-hearing conference with the arbitrator, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with a single arbitrator x \$250.00 = \$250.00

Pre-hearing conference: February 10, 2003 1 session

One (1) Hearing session x \$250.00 = \$250.00

Hearing Date: March 18, 2003 1 session

Total Forum Fees = \$500.00

1. The Arbitrator has assessed \$250.00 of the forum fees against Claimant.
2. The Arbitrator has assessed \$250.00 of the forum fees against Respondent.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee = \$ 75.00

Forum Fees = \$250.00

Total Fees = \$325.00

Less payments = \$325.00

Balance Due NASD Dispute Resolution = \$ 0.00

2. Respondent is solely liable for:

| | |
|-------------------------------------|-------------------|
| Member Fees | = \$325.00 |
| <u>Forum Fees</u> | <u>= \$250.00</u> |
| Total Fees | = \$575.00 |
| <u>Less payments</u> | <u>= \$325.00</u> |
| Balance Due NASD Dispute Resolution | = \$250.00 |

All balances are payable to NASD Dispute Resolution, and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Harold Rubin

Public Arbitrator

Arbitrator's Signature

Harold Rubin
Harold Rubin
Public Arbitrator

4/11/03
Signature Date

April 28, 2003
Date of Service (For NASD Dispute Resolution use only)