

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Shujaat Husain and Zaheerun Nisa Husain, Claimants v. Fidelity Brokerage Services, Respondent

Case Number: 02-05234

Hearing Site: Los Angeles, California

REPRESENTATION OF PARTIES

For Claimants:

In Propria Persona

For Respondent:

Susan L. Hoffman, Esq.
Bingham McCutchen
Los Angeles, California

CASE INFORMATION

Statement of Claim filed: September 4, 2002

Amended Statement of Claim filed: January 31, 2003

Claimants' Joint Uniform Submission Agreement signed: August 30, 2002

Statement of Answer filed by Respondent: December 20, 2002

Respondent's Uniform Submission Agreement signed: None filed

CASE SUMMARY

Claimants alleged improper and fraudulent accounting practices, false margin calls, account manipulation, misrepresentations, and breach of fiduciary duty, involving numerous securities.

Respondent denied the allegations of wrongdoing set forth in the Claimants' Statement of Claim.

RELIEF REQUESTED

In the Statement of Claim, Claimants requested \$150,000.00 in compensatory damages, \$50,000.00 in punitive damages, and costs, including attorney's fees. Claimants also requested that Respondent maintain daily account balances with 100% accuracy.

In the Amended Statement of Claim, Claimants requested \$450,000.00 in compensatory damages.

Respondent requested dismissal of the Claimants' Statement of Claim in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Fidelity Brokerage Services did not file with the NASD Dispute Resolution a properly executed submission agreement but is required to submit to arbitration pursuant to the Code and, having answered the claim, appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

On January 31, 2003, Claimants filed a Motion to Amend Statement of Claim pursuant to the NASD Code of Arbitration Procedure Rule 10328(b). After due consideration, the Panel subsequently granted Claimants' motion.

On October 16, 2002, Claimants signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

On October 21, 2002, Respondent Fidelity Brokerage Services' counsel signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

At the hearing, Respondent moved the Panel to exclude Claimants' evidence on damages. After due deliberation, the Panel denied Respondent's motion.

Also at the hearing, Respondent moved the panel to limit Claimants' introduction of documents not produced pursuant to Code of Arbitration Procedure Rule 10321. After due deliberation, the Panel denied Respondent's motion.

The parties 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, testimony, and evidence presented at the hearing, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Claimants' claims are denied in their entirety.
- 2) The parties shall bear their respective costs, including attorney's fees.
- 3) All other relief requested and not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee = waived

Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm Fidelity Brokerage Services is a party and the following fees are assessed:

Member Surcharge	= \$ 1,700.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$ 2,750.00</u>
Total Member Fees	= \$ 5,200.00

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair/Panel. The following fees are assessed:

2 Pre-hearing conference sessions with a single arbitrator @ \$ 450.00/session	= \$ 900.00
Pre-hearing conferences: May 5, 2003	1 session
May 23, 2003	1 session

1 Pre-hearing conference session with the Panel @ \$1,125.00/session	= \$ 1,125.00
Pre-hearing conferences: February 20, 2003	1 session

6 Hearing sessions @ \$1,125.00/session	= \$ 6,750.00
Hearings: June 3, 2003	2 sessions
June 4, 2003	2 sessions
June 5, 2003	2 sessions

Total Forum Fees	= \$ 8,775.00
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The Panel assessed \$ 8,775.00 of the forum fees jointly and severally to Claimants.

Fee Summary

1. Claimants are charged jointly and severally with the following fees and costs:

Forum Fees	= \$ 8,775.00
<u>Less payments</u>	= \$(0.00)
Balance Due NASD Dispute Resolution	= \$ 8,775.00

2. Respondent is charged with the following fees and costs:

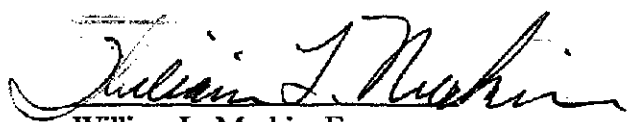
Member Fees	= \$ 5,200.00
<u>Less payments</u>	= \$(5,200.00)
Balance Due NASD Dispute Resolution	= \$(0.00)

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

ARBITRATION PANEL

William L. Merkin, Esq.	-	Public Arbitrator, Presiding Chair
Cathylyn Rossi	-	Public Arbitrator
Carolyn V. Quadt	-	Non-Public Arbitrator

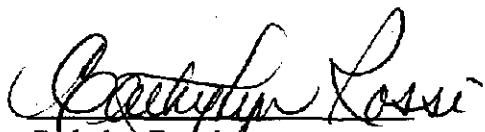
Concurring Arbitrators' Signatures



William L. Merkin, Esq.
Chair, Public Arbitrator

6/6/03

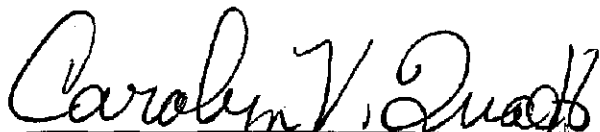
Signature Date



Cathylyn Rossi
Public Arbitrator

6 June 03

Signature Date



Carolyn V. Quadt
Non-Public Arbitrator

6/6/03

Signature Date

6/6/03

Date of Service