

**Award**  
**NASD Dispute Resolution**

In the Matter of the Arbitration Between:

Names of the Claimants

Lucian Lamar Sneed  
Glenda B. Sneed

Case Number: 02-06782

Name of the Respondent

Fidelity Brokerage Services, LLC,  
f/k/a Fidelity Brokerage Services, Inc.

Hearing Site: Atlanta, Georgia

Nature of the Dispute: Customer vs. Member.

**REPRESENTATION OF PARTIES**

For Lucian Lamar Sneed and Glenda B. Sneed, hereinafter collectively referred to as "Claimants": Robert C. Port, Esq., Hassett Cohen Goldstein Port & Gottlieb, LLP, Atlanta, Georgia.

For Fidelity Brokerage Services, LLC, f/k/a Fidelity Brokerage Services, Inc., hereinafter referred to as "Respondent": Matthew Farley, Esq. and Kathleen Donohue, Esq., Drinker Biddle & Reath LLP, New York, New York.

**CASE INFORMATION**

Statement of Claim filed on or about: November 10, 2002.

Claimants signed the Uniform Submission Agreement: October 23, 2002.

Statement of Answer filed by Respondent on or about: February 7, 2003.

Respondent signed the Uniform Submission Agreement: February 24, 2003.

**CASE SUMMARY**

Claimants asserted the following causes of action: breach of fiduciary duty; misrepresentation; breach of contract; negligence; and, violation of Georgia Securities Act. The causes of action relate to Claimants' investments in technology, communication and growth stock funds, including but not limited to the following: Fidelity Aggressive Growth; PBHG Select 20; and, PBHG Technology and Communications.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted various defenses.

**RELIEF REQUESTED**

Claimants requested actual damages in an amount not less than \$1 million, interest, attorneys' fees, costs and expenses, punitive damages as the arbitration panel deemed appropriate and other relief as the arbitration panel deemed just and appropriate.

Respondent requested a dismissal of the claim.

### **OTHER ISSUES CONSIDERED AND DECIDED**

The parties have agreed that the Award in this matter may be executed in counterpart copies.

### **AWARD**

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), the undersigned arbitrators (the "Panel") have decided in full and final resolution of the issues submitted for determination as follows:

The Panel finds for Respondent. The Panel believes the Claimants made their own investment decisions. The Panel finds the Claimants did not rely upon Respondent for their ultimate investment decisions and were not denied assistance by Respondent.

Any and all claims for relief not specifically addressed herein, including Claimants' request for punitive damages, are denied.

### **FEES**

Pursuant to the NASD Code of Arbitration Procedure (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	= \$375.00
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#### **Member Fees**

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm is a party.

Member surcharge	= \$2,250.00
Pre-hearing process fee	= \$750.00
Hearing process fee	= \$4,000.00

#### **Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

No adjournment fees were assessed in this matter.

#### **Injunctive Relief Fees**

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional

arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the Panel.

No injunctive relief fees were incurred in this matter.

**Forum Fees and Assessments**

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

Two Pre-hearing sessions with the Panel @ \$1,200.00	= \$2,400.00
Pre-hearing conferences: July 1, 2003 1 session	
January 16, 2004 1 session	

Nine (9) Hearing sessions @ \$1,200.00	= \$10,800.00
Hearing Dates: July 12, 2004 3 sessions	
July 13, 2004 2 sessions	
July 14, 2004 2 sessions	
July 15, 2004 2 sessions	

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Total Forum Fees	= \$13,200.00
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The Panel has assessed \$6,600.00 of the forum fees to Claimants, jointly and severally.  
The Panel has assessed \$6,600.00 of the forum fees to Respondent.

**Administrative Costs**

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred in this matter.

**FEE SUMMARY**

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$375.00
Forum Fees	= \$6,600.00
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Total Fees	= \$6,975.00
Less payments	= \$1,575.00
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Balance Due NASD Dispute Resolution	= \$5,400.00

Respondent is solely liable for:

Member Fees	= \$7,000.00
Forum Fees	= \$6,600.00
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Total Fees	= \$13,600.00
Less payments	= \$7,000.00
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Balance Due NASD Dispute Resolution	= \$6,600.00

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

**ARBITRATION PANEL**

Gary J. Leshaw, JD	-	Public Arbitrator, Presiding Chair
James C. Hoover, Esq.	-	Public Arbitrator
Chesley V. Morton, Jr.	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

\_\_\_\_\_/S/\_\_\_\_\_  
Gary J. Leshaw, JD  
Public Arbitrator, Presiding Chair

\_\_\_\_\_  
Signature Date

\_\_\_\_\_/S/\_\_\_\_\_  
James C. Hoover, Esq.  
Public Arbitrator

\_\_\_\_\_  
Signature Date

\_\_\_\_\_/S/\_\_\_\_\_  
Chesley V. Morton, Jr.  
Non-Public Arbitrator

\_\_\_\_\_  
Signature Date

July 23, 2004  
Date of Service (For NASD Dispute Resolution office use only)

NASD Dispute Resolution

Arbitration No. 02-06782

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Respondent is solely liable for:

Member Fees

= \$7,000.00

Forum Fees

= \$6,600.00

Total Fees

= \$13,600.00

Less payments

= \$7,000.00

Balance Due NASD Dispute Resolution

= \$6,600.00

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**ARBITRATION PANEL**

Gary J. Leshaw, JD

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Public Arbitrator, Presiding Chair

James C. Hoover, Esq.

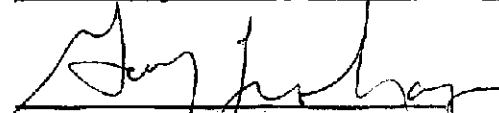
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Public Arbitrator

Chesley V. Morton, Jr.

-

Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

Gary J. Leshaw, JD

Public Arbitrator, Presiding Chair

7/21/04  
Signature Date

James C. Hoover, Esq.

Public Arbitrator

Signature Date

Chesley V. Morton, Jr.

Non-Public Arbitrator

Signature Date

Date of Service (For NASD Dispute Resolution office use only)

Respondent is solely liable for:

Member Fees

= \$7,000.00

Forum Fees

= \$6,600.00

Total Fees

= \$13,600.00

Less payments

= \$7,000.00

Balance Due NASD Dispute Resolution

= \$6,600.00

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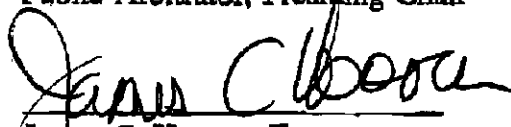
Non-Public Arbitrator

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Gary J. Leshaw, JD

Public Arbitrator, Presiding Chair

Signature Date

  
James C. Hoover, Esq.  
Public Arbitrator

7/21/04  
Signature Date

Chesley V. Morton, Jr.

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NASD Dispute Resolution  
Arbitration No. 02-06782  
Award Page 4

Respondent is solely liable for:

Member Fees = \$7,000.00

Forum Fees = \$6,600.00

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Total Fees = \$13,600.00

Less payments = \$7,000.00

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Balance Due NASD Dispute Resolution = \$6,600.00

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

**ARBITRATION PANEL**

Gary J. Leshaw, JD

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Public Arbitrator, Presiding Chair

James C. Hoover, Esq.

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Public Arbitrator

Chesley V. Morton, Jr.

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Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

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Gary J. Leshaw, JD

Public Arbitrator, Presiding Chair

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Signature Date

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James C. Hoover, Esq.

Public Arbitrator

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Signature Date

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Chesley V. Morton, Jr.

Non-Public Arbitrator

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7-20-04

Signature Date

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Date of Service (For NASD Dispute Resolution office use only)