

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Michael J. Raso (Claimant) v. Fidelity Brokerage Services, LLC (Respondent)

Case Number: 02-06964

Hearing Site: Boston, Massachusetts

Nature of the Dispute: Associated Person vs. Member.

REPRESENTATION OF PARTIES

Claimant Michael J. Raso ("Raso") hereinafter referred to as "Claimant": David Rapaport, Esq., Rapaport & Rapaport, Boston, MA.

Respondent Fidelity Brokerage Services, LLC ("Fidelity") hereinafter referred to as "Respondent": Wilfred J. Benoit, Jr., Esq., Goodwin Procter, LLP, Boston, MA.

CASE INFORMATION

Statement of Claim filed on or about: November 15, 2002.

Claimant signed the Uniform Submission Agreement: November 14, 2002.

Statement of Answer filed by Respondent on or about: January 31, 2003.

Respondent signed the Uniform Submission Agreement: January 31, 2003.

CASE SUMMARY

Claimant asserted the following causes of action: breach of contract (wrongful termination); and defamation.

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

RELIEF REQUESTED

Claimant requested compensatory damages of at least two million dollars; forum fees; witness and production fees; interest; and such other relief as is just.

OTHER ISSUES CONSIDERED AND DECIDED

At the close of Claimant's case, Respondent made a Motion to Dismiss/Directed Verdict. After due consideration, the Panel denied the motion.

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

1. Respondent is liable for and shall pay to the Claimant compensatory damages in the amount of \$50,000.00,
2. Those funds in Claimant's pension/retirement plan to which he is entitled \$85,000.00, are directed to be paid to Claimant upon Claimant's signing of the release previously sent to him by Fidelity.
3. The Panel recommends that CRD expunge that portion of Claimant's U-5 submitted by Fidelity Broker Services LLC, which states that Claimant was "Discharged." The Panel also orders CRD to expunge the accompanying explanation to the reason for termination which states, "Customer Reassignment; No harm to Customers." The Panel orders CRD to replace the original reason for termination with "voluntary," so that the Form U-5 indicates Claimant's reason for termination was "voluntary" with no accompanying reason for explanation. The expungement directive is made with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Claimant must obtain confirmation from a court of competent jurisdiction before CRD will execute the expungement directive.
4. Any and all relief not specifically addressed herein is 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	= \$500.00
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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 that employed the associated person at the time of the events giving rise to the dispute. Accordingly, Fidelity Brokerage Services, LLC is a party.

Member surcharge	= \$2,800.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$5,000.00

Forum Fees and Assessments

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

One (1) Pre-hearing session with a single arbitrator @ \$450.00 = \$ 450.00

Pre-hearing conference: October 22, 2003 1 session

One (1) Pre-hearing session with Panel @ \$1,200.00 = \$ 1,200.00

Pre-hearing conference: June 5, 2003 1 session

Ten (10) Hearing sessions @ \$1,200.00 = \$12,000.00

Hearing Dates: November 3, 2003 2 sessions

November 4, 2003 2 sessions

November 6, 2003 2 sessions

November 7, 2003 2 sessions

December 17, 2003 2 sessions

Total Forum Fees = \$13,650.00

1. The Panel has assessed \$6,825.00 of the forum fees against Claimant.
2. The Panel has assessed \$6,825.00 of the forum fees against Respondent.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee = \$ 500.00

Forum Fees = \$ 6,825.00

Total Fees = \$ 7,325.00

Less payments = \$ 1,700.00

Balance Due NASD Dispute Resolution = \$ 5,625.00

2. Respondent is solely liable for:

Member Fees = \$ 8,550.00

Forum Fees = \$ 6,825.00

Total Fees = \$15,375.00

Less payments = \$ 8,550.00

Balance Due NASD Dispute Resolution = \$ 6,825.00

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

ARBITRATION PANEL

Thomas W. Duffey, Esq.	-	Public Arbitrator, Presiding Chair
Kevin J. Mulrey	-	Public Arbitrator
William S. Tagerman	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.



Thomas W. Duffey, Esq.
Public Arbitrator, Presiding Chairperson



Signature Date

Kevin J. Mulrey
Public Arbitrator

Signature Date

William S. Tagerman
Non-Public Arbitrator

Signature Date

January 15, 2004
Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

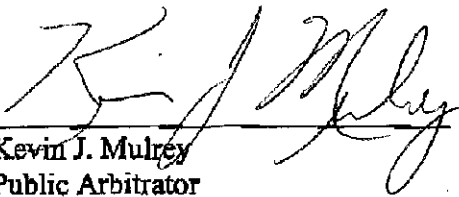
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Thomas W. Duffey, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date



Kevin J. Mulrey
Public Arbitrator



Signature Date

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Non-Public Arbitrator

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Public Arbitrator, Presiding Chairperson

Signature Date

Kevin J. Mulrey
Public Arbitrator

Signature Date



William S. Tagerman
Non-Public Arbitrator

1/8/04

Signature Date

January 15, 2004
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