

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Claimant

Robert J. Welter

v.

03-00740

Denver, Colorado

Respondent

Fidelity Management & Research Company

Nature of Dispute: Customer v. Non-Member

REPRESENTATION OF PARTIES

Robert J. Welter ("Claimant") appeared pro se.

Fidelity Management & Research Company, ("Respondent") was represented by Rodney Acker, Esq., of Jenkins & Gilchrist, Dallas, Texas.

CASE INFORMATION

The Statement of Claim was filed on or about January 22, 2003. The Submission Agreement of Claimant was signed on or about January 22, 2003.

Statement of Answer was filed by Respondent Fidelity Management & Research Company on or about July 23, 2003.

CASE SUMMARY

Claimant asserted the following causes of action: negligence and breach of fiduciary duty. The causes of action related to Claimant's allegation that Respondent was negligent in the management of his Fidelity Aggressive Growth mutual fund and failed to preserve his capital upon the market's downturn.

Respondent denied the allegations set forth in the Statement of Claim and asserted affirmative defenses including the following: Claimant's claims are barred by the doctrines of waiver, estoppel and ratification; Claimant's claims are barred from recovery because Respondent acted in good faith at all relevant times; Claimant's claims are barred, in whole or in part, by comparative and/or contributory negligence; and any losses incurred were the result of market conditions.

RELIEF REQUESTED

Claimant requested an award in the amount of \$35,000 in compensatory damages. In Claimant's Amended Statement of Claim he requested an award in the amount of \$25,000 in compensatory damages. In addition, Claimant requested interest, costs and any other relief that the Panel deemed just and equitable.

Respondent requested that the claims asserted against it be denied in their entirety and that it be awarded its costs and attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDED

Respondent Fidelity Management & Research Company did not file with NASD Dispute Resolution a properly executed Uniform Submission Agreement but having answered the claim is bound by the determination of the Arbitrator on all issues submitted.

On or about September 22, 2003, Claimant requested that this matter proceed under Rule 10302 of NASD Code of Arbitration Procedure. Respondent did not object.

The parties have agreed that the handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the award while the originals remain on file with NASD Dispute Resolution ("NASD").

AWARD

After considering the pleadings, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims, each and all, are hereby denied and dismissed with prejudice in their entirety;
2. To the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief, are denied with prejudice; and
3. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys' fees.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain the non-refundable filing fee for each claim:

Initial claim filing fee = \$ 175

Forum Fees and Assessments

The Arbitrator has assessed forum fees for a decision on the pleadings pursuant to Rules 10302 and 10322 of NASD Code of Arbitration Procedures. In this case the forum fees are \$300.

The Arbitrator has assessed \$ 300 of the forum fees to Robert J. Welter.

Fee Summary

Claimant, Robert J. Welter is liable for:

Initial Filing Fee	= \$ 175
<u>Forum Fees</u>	<u>= \$ 300</u>
Total Fees	= \$ 475
<u>Less payments</u>	<u>= \$ 775</u>
Balance Refunded By NASD Dispute Resolution	= \$ 300

All balances are due to NASD Dispute Resolution pursuant to Rule 10330(g) of the Code of Arbitration

ARBITRATOR

Dom Alecci - Public Arbitrator, Presiding Chair

Arbitrator's Signature:

Dom Alecci
Public Arbitrator, Presiding Chair

Signature Date

2/11/04
Date of Service (NASD use only)

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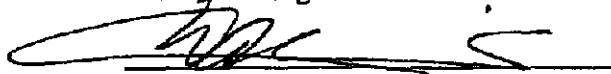
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Feb 6, 2004
Signature Date

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Date of Service (NASD use only)