

NASD DISPUTE RESOLUTION AWARD
NASD DISPUTE RESOLUTION

CASE: 03-02063

Peter Frank Ricciardi, Jr., for his Roth IRA & Traditional IRA, Claimant v. Fidelity Brokerage Services LLC and Evan L. Salomon, Respondents.

ATTORNEYS:

For Claimants, Peter Frank Ricciardi, Jr., ("Claimant"), appeared John F. Hersch, Jr., Esq., Macedonia, OH.

Respondents Fidelity Brokerage Services LLC and Evan L. Salomon ("Respondents"), appeared through their in-house counsel Colleen A. Hankins, Esq., Boston, MA.

NATURE OF DISPUTE: Customer v. Member and Associated Person

DATE FILED: March 21, 2003

CASE SUMMARY: Claimant alleged that Respondents were negligent, breached their fiduciary duty, recommended unsuitable stock, and misrepresented the appropriate asset allocation for his portfolio. Claimant additionally alleged that Respondent Fidelity Brokerage Services LLC failed to supervise its representative, Respondent Evan L. Salomon. Claimant's claim involved Fidelity Aggressive Growth, Fidelity Diversified International, Fidelity Mid Cap, Fidelity Fund, and Fidelity Technology Leaders mutual fund securities. Claimant maintained that due to Respondents' action, his IRA accounts suffered financial losses.

ARIBTRATOR'S REPORT: The Respondents are found liable to the Claimant, jointly and severally, in the amount of \$7,626.93, representing the difference between the actual value of the portfolio recommended to Claimant by Respondents on March 21, 2000 and the estimated value of the portfolio had it been invested in a more diversified, less concentrated portfolio suitable to the customer's age, investment history, expressed goals and risk tolerance plus monthly interest on \$6,184.09 at Ohio Statutory Rate of 10% APR ($\$51.53 \times 28 \text{ months}$, 8/01 -12/03) = \$1,442.84.

| | |
|--|---------------------------|
| 3/21/2000 Value of Portfolio: | \$70,152.95 |
| Estimated Value of a Suitable Portfolio at 8/24/01 | \$52,614.71 (25% decline) |
| Actual Value of Portfolio | <u>\$46,430.62</u> |
| Difference (Principal Loss) | \$ 6,184.09 |
| Plus 10% APR Interest | <u>\$ 1,442.84</u> |
| Total Damages Due to Claimant | \$7,626.93 |

Claim Data

Claim: \$23,679.45
Punitive: Unspecified
Interest: Unspecified
Attorney Fees: Unspecified
Filing Fees: \$425.00
Other: Unspecified

Award Data

Award: \$6,184.09
Punitive: \$.00
Interest: \$1,442.84
Attorney Fees: \$.00
Filing Fees: \$212.50
Other: \$.00

AWARD: The undersigned arbitrator has decided and determined in full and final resolution of the issues submitted for determination as follows: 1) Respondents are jointly and severally liable and shall pay to the Claimant \$6,184.09. 2) Respondents are jointly and severally liable and shall pay to the Claimant \$1,442.84 in interest. 3) All requests for punitive damages are denied. 4) All requests for attorney fees are denied. 5) All other relief requests are denied. 6) NASD Dispute Resolution shall retain the \$425.00 filing fee that the Claimant deposited previously. 7) Respondents are jointly and severally liable and shall pay to the Claimant \$212.50 as reimbursement of one-half of the filing fee.

OTHER FEES: Pursuant to Rule 10333 of the Code, Respondent Fidelity Brokerage Services LLC has paid to NASD Dispute Resolution the \$425.00 Member Surcharge previously invoiced.

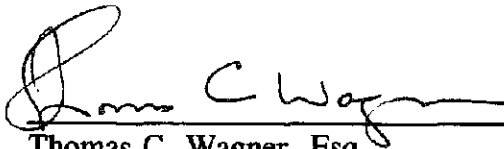
Page Three
Award 03-02063

Thomas C. Wagner, Esq.

Sole Public Arbitrator

AFFIRMATION

I, Thomas C. Wagner, Esq., do hereby affirm, upon my oath as arbitrator that I am the individual described herein who executed this instrument, which is my oath and award.


Thomas C. Wagner, Esq.

12/22/03

Signature Date

January 9, 2004

Date of Service (For NASD-DR office use only)