

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Antoinette Gleeson v. Fidelity Brokerage Services LLC and Martin Cunningham

Case Number: 04-00834

Hearing Site: New York, New York

Nature of the Dispute: Customer vs. Member and Associated Person

REPRESENTATION OF PARTIES

Claimant Antoinette Gleeson ("Gleeson") hereinafter referred to as "Claimant": Brian J. Neville, Esq., Law Offices of Brian J. Neville, New York, NY.

Respondents Fidelity Brokerage Services LLC ("Fidelity") and Martin Cunningham ("Cunningham") hereinafter collectively referred to as "Respondents": Nikole J. Crosby, Esq., Jenkins & Gilchrist, Dallas, TX.

CASE INFORMATION

Statement of Claim filed on or about: February 6, 2004.

Claimant signed the Uniform Submission Agreement: December 2, 2003.

Joint Statement of Answer filed by Respondents on or about: May 7, 2004.

Respondent Fidelity signed the Uniform Submission Agreement: May 24, 2004.

Respondent Cunningham signed the Uniform Submission Agreement: February 25, 2004.

CASE SUMMARY

Claimant asserted the following causes of action: suitability, violation of Federal securities laws, failure to supervise, respondeat superior and agency principal, fraud, misrepresentation and violation of industry rules. The causes of action relate to mutual funds.

Unless specifically admitted in their Answer, Respondents denied the allegations of wrongdoing set forth in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$120,129.83; interest at nine percent from date of amount deposited to accounts to award date; attorney's fees; reimbursement of all filing and hearing fees and any other relief the Panel deems just and equitable.

Respondents requested dismissal of the Statement of Claim in its entirety, an award of reasonable attorney's fees and all costs associated with this arbitration, and expungement of this matter from Martin Cunningham's CRD records.

OTHER ISSUES CONSIDERED AND DECIDED

The parties agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

On or about May 20, 2005, the parties notified NASD that they entered into a private settlement agreement.

AWARD

The parties entered into an agreement to present to the Panel a Stipulated Award. Now, in lieu of a hearing and upon motion of both parties for an entry of an award, the written stipulation thereto, the Panel grants the motion and enters this award granting the following relief:

1. Claimant's claims are dismissed, with prejudice, in their entirety.
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Martin Cunningham's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Martin Cunningham must obtain confirmation from a court of competent jurisdiction before CRD will execute the expungement directive.
3. 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, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$ 300.00

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 persons at the time of the events giving rise to the dispute. In this matter, the member firm Fidelity is a party.

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

Three-Day Cancellation Fees

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session:

May 23-25, 27, 2005 hearing dates settled by the parties

Claimant's share	= \$ 150.00
Respondents' share	= \$ 150.00

Forum Fees and Assessments

The Panel assesses forum fees for each hearing session conducted. A hearing 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. Forum fees associated with these proceedings are:

One (1) Pre-hearing conference session with the Panel @ \$1,125.00/session	= \$ 1,125.00
Pre-hearing conference: July 29, 2004 1 session	
Total Forum Fees	= \$ 1,125.00

1. The Panel has assessed \$ 562.50 of the forum fees against Claimant.
2. The Panel has assessed \$ 562.50 of the forum fees, jointly and severally, against Respondents.

Fee Summary

1. Claimant Gleeson is solely liable for:

Initial Filing Fee	= \$ 300.00
Three-Day Cancellation Fee	= \$ 150.00
<u>Forum Fees</u>	= \$ 1,125.00
Total Fees	= \$ 1,575.00
<u>Less payments</u>	= \$ 1,425.00
Balance Due NASD Dispute Resolution	= \$ 150.00

Pursuant to Rule 10332(f) of the Code of Arbitration Procedure, NASD is retaining the total amount of the hearing session deposited by the Claimant because this office was notified by the parties that they settled this matter within eight business days of the first scheduled hearing.

2. Respondent Fidelity is solely liable for:

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

3. Respondents Fidelity and Cunningham are jointly and severally liable for:

Three-Day Cancellation Fee	= \$ 150.00
<u>Forum Fees</u>	= \$ 562.50
Total Fees	= \$ 712.50
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 712.50

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

Parties' Signatures

Antoinette Gleeson

Antoinette Gleeson
Claimant

Signature Date

Fidelity Brokerage Services LLC
Respondent

Signature Date

Martin Cunningham
Respondent

Signature Date

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Parties' Signatures

Ansomette Gleason
Chairman

Signature Date

Gregory Vennedey

Fidelity Brokerage Services LLC
Respondent

6/29/05

Signature Date

Martin Cunningham
Respondent

Signature Date

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Further Signatures

Antoinette Gleason
Claimant

Signature Date

Fidelity Brokerage Services LLC
Respondent

Signature Date

Martin Cunningham
Martin Cunningham
Respondent

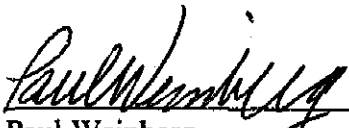
6/29/05
Signature Date

ARBITRATION PANEL

Paul Weinberg	-	Public Arbitrator, Presiding Chair
Douglas John Baumann, Esq.	-	Public Arbitrator
Ivan W. Harper, CPA	-	Industry 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 is which is my award.



Paul Weinberg
Public Arbitrator, Presiding Chair

January 27, 2006
Signature Date

Douglas John Baumann, Esq.
Public Arbitrator

Signature Date

Ivan W. Harper, CPA
Industry Arbitrator

Signature Date

February 3, 2006

Date of Service (For NASD office use only)

ARBITRATION PANEL

Paul Weinberg	-	Public Arbitrator, Presiding Chair
Douglas John Baumann, Esq.	-	Public Arbitrator
Ivan W. Harper, CPA	-	Industry Arbitrator

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Paul Weinberg
Public Arbitrator, Presiding Chair

Signature Date

Douglas John Baumann, Esq.
Public Arbitrator

Signature Date

Ivan W. Harper
Ivan W. Harper, CPA
Industry Arbitrator

1/24/06
Signature Date

February 3, 2006

Date of Service (For NASD office use only)