

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

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In the Matter of the Arbitration Between:

Kenneth F. Kames (Claimant) vs. Fidelity Investments Institutional Services Company  
(Respondent)

Case Number: 05-03048

Hearing Site: Boston, Massachusetts

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Nature of the Dispute: Customer vs. Member.

**REPRESENTATION OF PARTIES**

Claimant Kenneth F. Kames hereinafter referred to as "Claimant": Richard A. Goren, Esq., Rubin, Hay & Gould, P.C., Farmingham, MA.

Respondent Fidelity Investments Institutional Services Company hereinafter referred to as "Respondent": Matthew Applebaum, Esq., and David C. Boch, Esq., Bingham McCutchen, LLP, Boston, MA.

**CASE INFORMATION**

Statement of Claim filed on or about: June 13, 2005.

Claimant signed the Uniform Submission Agreement: June 2, 2005.

Statement of Answer filed by Respondent on or about: September 21, 2005.

Respondent signed the Uniform Submission Agreement: September 21, 2005.

**CASE SUMMARY**

Claimants asserted the following causes of action: common law fraud, negligent misrepresentation, violation of Massachusetts General Law, chapter 93A.

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

**RELIEF REQUESTED**

Claimants requested compensatory damages in the amount of \$75,982, punitive damages in the amount of \$151,964, reasonable attorneys' fees, interest at the rate of 12% from the filing date of Claimant's 2004 tax return to the date of the award and costs.

Respondent requested the dismissal of the Statement of Claim.

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

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

1. Claimants' claims are dismissed in their entirety.
2. 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	= \$ 300.00
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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 Investments Institutional Services Company is a party.

Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$2,750.00

#### **Forum Fees and Assessments**

The Arbitrator has assessed forum fees for each session conducted or each decision rendered on a discovery-related motion on the papers. 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: March 21, 2006 1 session	

One (1) Pre-hearing session with Panel @ \$1,125.00	= \$1,125.00
Pre-hearing conference: November 22, 2005 1 session	

Four (4) Hearing sessions @ \$1,125.00		= \$4,500.00
Hearing Dates:	May 17, 2006	2 sessions
	May 18, 2006	2 sessions
<hr/> Total Forum Fees		= \$6,075.00

1. The Panel has assessed \$6,075.00 of the forum fees to Claimant.

**Fee Summary**

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$6,075.00
<hr/> Total Fees	= \$6,375.00
Less payments	= \$1,425.00
<hr/> Balance Due NASD Dispute Resolution	= \$4,950.00

2. Respondent is solely liable for:

Member Fees	= \$5,200.00
<hr/> Total Fees	= \$5,200.00
Less payments	= \$3,400.00
<hr/> Balance Due NASD Dispute Resolution	= \$1,800.00


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

ARBITRATORS

Nikolas F. Monteforte, Esq.  
Andrew Ian Coughlass, Esq.  
William J. Driscoll

- Public Arbitrator, Presiding Chairperson  
- Public Arbitrator  
- Non-Public Arbitrator

Concurring Arbitrators' Signatures



Nikolas F. Monteforte, Esq.  
Public Arbitrator, Presiding Chairperson

June 27, 2006

Signature Date

Andrew Ian Coughlass, Esq.  
Public Arbitrator

Signature Date

William J. Driscoll  
Non-Public Arbitrator

Signature Date

June 28, 2006

Date of Service (For NASD Dispute Resolution use only)

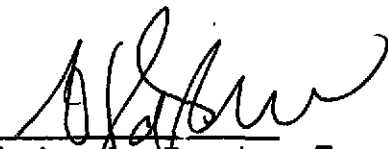
**ARBITRATION PANEL**

Nikolas F. Monteforte, Esq.	-	Public Arbitrator, Presiding Chairperson
Andrew Ian Douglass, Esq.	-	Public Arbitrator
William J. Driscoll	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

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Nikolas F. Monteforte, Esq.  
Public Arbitrator, Presiding Chairperson

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

  
\_\_\_\_\_  
Andrew Ian Douglass, Esq.  
Public Arbitrator

6/29/06  
\_\_\_\_\_  
Signature Date

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William J. Driscoll  
Non-Public Arbitrator

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

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Andrew Ian Douglass, Esq.	-	Public Arbitrator
William J. Driscoll	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

Nikolas F. Monteforte, Esq.  
Public Arbitrator, Presiding Chairperson

Signature Date

Andrew Ian Douglass, Esq.  
Public Arbitrator

Signature Date

Wm. J. Driscoll  
William J. Driscoll  
Non-Public Arbitrator

6/28/06  
Signature Date

June 28, 2006

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