

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:
Fidelity Brokerage Services, LLC, Claimant v. Isaiah David Tapius, Respondent

Case Number: 05-04619

Hearing Site: Denver, Colorado

Nature of the Dispute: Member v. Customer

REPRESENTATION OF PARTIES

For Claimant:

Laurence K. Richmond, Esq.
Laurence K. Richmond & Associates
Quincy, Massachusetts

For Respondent:

Isaiah David Tapius
In Propria Persona
Beverly Hills, California

CASE INFORMATION

Statement of Claim filed: August 31, 2005

Claimant's Uniform Submission Agreement signed: August 26, 2005

Statement of Answer filed by Respondent: Not filed

Respondent's Uniform Submission Agreement signed: Not filed

CASE SUMMARY

In its Statement of Claim, Claimant alleged that Respondent opened an account with Claimant and deposited checks totaling \$57,500.00. Claimant alleged further, that shortly thereafter, Respondent caused \$55,000.00 to be wired out of that account. Claimant was subsequently notified that the checks were being returned because the bank account referenced on the checks did not exist. As a result, there is an unpaid debt balance in Respondent's account of \$55,046.47.

RELIEF REQUESTED

In its Statement of Claim, Claimant requested \$55,046.47 in compensatory damages, interest and costs, including attorney's fees.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent did not file with the NASD Dispute Resolution a properly executed submission agreement but is required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "*Code*") is bound by the determination of the Panel on all issues submitted.

Respondent did not appear at the hearing. Upon review of the file and the representations made by and on behalf of the Claimant, the undersigned Panel determined that Respondent was properly served with the Statement of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without said Respondent present, in accordance with the *Code*.

AWARD

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

- 1) The Respondent is liable and shall pay to Claimant the sum of \$55,046.47 in compensatory damages.
- 2) The parties shall bear their respective costs, including attorney's fees.
- 3) All other relief requested and not expressly granted is denied.

FEES

Pursuant to the NASD Code of Arbitration Procedure ("Code"), the following fees are assessed:

Filing Fees

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 1,000.00
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Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm Fidelity Brokerage Services, LLC is a party and the following fees are assessed:

Member Surcharge	= \$ 1,100.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$ 1,700.00
Total Member Fees	= \$ 3,550.00

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair/Panel. The following fees are assessed:

(1) Pre-hearing conference session with the Panel @ \$750.00/session = \$ 750.00
Pre-hearing conference: January 12, 2006 1 session

(1) Hearing session @ \$750.00/session = \$ 750.00
Hearing: March 8, 2006 1 session

Total Forum Fees = **\$ 1,500.00**

1. The Panel assessed \$750.00 of the forum fees to Claimant.
2. The Panel assessed \$750.00 of the forum fees to Respondent.

Fee Summary

1. Claimant is charged with the following fees and costs:

Initial Filing Fee	= \$ 1,000.00
Member Fees	= \$ 3,550.00
<u>Forum Fees</u>	<u>= \$ 750.00</u>
Total Fees	= \$ 5,300.00
<u>Less payments</u>	<u>= \$(5,275.00)</u>
Balance Due NASD Dispute Resolution	= \$ 25.00

2. Respondent is charged with the following fees and costs:

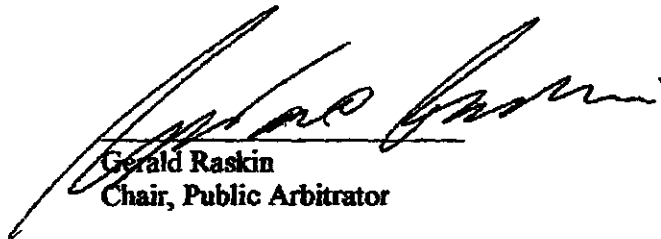
<u>Forum Fees</u>	<u>= \$ 750.00</u>
Balance Due NASD Dispute Resolution	= \$ 750.00

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

ARBITRATION PANEL

Gerald Raskin	-	Public Arbitrator, Presiding Chair
William R. Rapson	-	Public Arbitrator
Devra Perch	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Gerald Raskin
Chair, Public Arbitrator

3/10/06

Signature Date

William R. Rapson
Public Arbitrator

Signature Date

Devra Perch
Non-Public Arbitrator

Signature Date

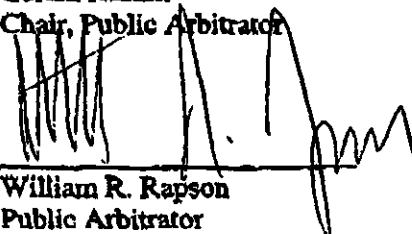
3/20/06

Date of Service

ARBITRATION PANEL

Gerald Raskin	-	Public Arbitrator, Presiding Chair
William R. Rapson	-	Public Arbitrator
Devra Perch	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Gerald Raskin
Chair, Public Arbitrator


William R. Rapson
Public Arbitrator

Signature Date

3/20/06

Signature Date

Devra Perch
Non-Public Arbitrator

Signature Date

3/20/06

Date of Service

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Concurring Arbitrators' Signatures

Gerald Raskin
Chair, Public Arbitrator

Signature Date

William R. Rapson
Public Arbitrator

Signature Date



Devra Perch
Non-Public Arbitrator

3/13/06

Signature Date

3/20/06

Date of Service