

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

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In the Matter of the Arbitration Between:

Fidelity Brokerage Service, LLC (Claimant) vs. Atilla Demiray (Respondent)

Case Number: 05-05766

Hearing Site: New York, New York

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Nature of the Dispute: Member vs. Customer

**REPRESENTATION OF PARTIES**

Claimant Fidelity Brokerage Service, LLC ("Fidelity") hereinafter referred to as "Claimant": Laurence K. Richmond, Esq., Law Office of Laurence K. Richmond, Quincy, Massachusetts.

~~Respondent Atilla Demiray ("Demiray") hereinafter referred to as "Respondent" did not~~  
enter an appearance in this matter.

**CASE INFORMATION**

Statement of Claim filed on or about: November 11, 2005.

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

Respondent did not file an Answer or Uniform Submission Agreement.

**CASE SUMMARY**

Claimant asserted the following cause of action: collection as a result of debit balance in account. The cause of action relates to an unsecured debit balance.

**RELIEF REQUESTED**

Claimant requested compensatory damages in the amount of \$76,694.00, interest, attorney's fees and costs.

**OTHER ISSUES CONSIDERED AND DECIDED**

Upon review of the file and the representations made on behalf of the Claimant, the undersigned arbitrators (the "Panel") determined that Respondent Demiray has been 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 NASD Code of Arbitration Procedure (the "Code").

Respondent Demiray did not file with NASD Dispute Resolution a properly executed Uniform Submission Agreement but is required to submit to arbitration pursuant to the

Code and is bound by the determination of the Panel on all issues submitted.

On or about April 6, 2006, Claimant filed a Motion to Conduct a Telephonic Hearing on the Merits and Respondent did not file a response. After due deliberation by the arbitrators the Panel determined to grant Claimant's Motion. All parties were subsequently notified in writing that a telephonic hearing on the merits would be held on May 9, 2006.

Claimant 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 Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent is liable for and shall pay to the Claimant \$76,694.00 in compensatory damages plus interest at 8% per annum accruing from the date of the Award until the Award is paid in full.
2. Respondent is liable for and shall pay to the Claimant \$2,000.00 in attorney's fees pursuant to the customer account agreement.
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 will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$ 1,000.00
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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 persons at the time of the events giving rise to the dispute. Accordingly, Fidelity Brokerage Service, LLC is a party.

Member surcharge	= \$ 1,100.00
Pre-hearing process fee	= \$ 750.00

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

The Panel 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:

Four (4) Pre-hearing conference sessions with Panel @ \$750.00 per session

			= \$ 3,000.00
Pre-hearing conferences:	March 6, 2006	1 session	
	April 6, 2006	1 session	
	May 4, 2006	1 session	
	May 9, 2006	1 session	
<hr/> Total Forum Fees			<hr/> =\$3,000.00

1. The Panel has assessed \$1,500.00 of the forum fees against the Claimant.
2. The Panel has assessed \$1,500.00 of the forum fees against the Respondent.

**Fee Summary**

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 1,000.00
Member Fees	= \$ 1,850.00
Forum Fees	= \$ 1,500.00
Total Fees	= \$ 4,350.00
Less payments	= \$ 3,600.00
Balance Due NASD Dispute Resolution	= \$ 750.00

2. Respondent is solely liable for:

Forum Fees	= \$ 1,500.00
Total Fees	= \$ 1,500.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 1,500.00

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

**ARBITRATION PANEL**

Wilbur K. Williams	-	Public Arbitrator, Presiding Chairperson
Michael C. Deutsch, Esq.	-	Public Arbitrator
John Nino Brenkovich	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

Wilbur K. Williams  
Wilbur K. Williams  
Public Arbitrator, Presiding Chairperson

6/1/06  
Signature Date

Michael C. Deutsch, Esq.  
Public Arbitrator

Signature Date

John Nino Brenkovich  
Non-Public Arbitrator

Signature Date

June 1, 2006

Date of Service (For NASD Dispute Resolution use only)

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