

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:
Fidelity Brokerage Services, LLC, Claimant v. Amador Vargas, Jr., Respondent

Case Number: 06-00239

Hearing Site: Los Angeles, California

Nature of the Dispute: Member v. Customer

REPRESENTATION OF PARTIES

For Claimant:

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

CASE INFORMATION

Statement of Claim filed: January 12, 2006

Claimant's Uniform Submission Agreement signed: December 19, 2005

CASE SUMMARY

Claimant alleged breach of contract, fraud, misrepresentation, and conversion. Claimant alleged that after opening an account with Claimant, Respondent wrote a check for \$38,000.00; that Respondent's check was subsequently returned; and, that prior to the return of Respondent's check, Respondent withdrew \$35,000.00 from his account, leaving a debit balance.

RELIEF REQUESTED

Claimant requested \$33,493.01 in compensatory damages, unspecified interest, and costs, including attorney's fees.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent did not file with NASD Dispute Resolution ("NASD-DR") a properly executed submission agreement or a Statement of Answer. The Arbitrator determined that Respondent is subject to NASD DR jurisdiction pursuant to the Account Application signed by Respondent on or about April 5, 2000. The Arbitrator further determined that

Respondent is required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure ("the Code") and is bound by the determination of the Panel on all issues submitted.

Respondent did not appear at the hearing. Upon review of the evidence and Claimant's testimony, the Arbitrator 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.

On May 9, 2006, an Initial Pre-Hearing Conference was held. Respondent made no appearance. After setting the hearing date for this case, the Arbitrator ordered that the hearing could be held telephonically at Claimant's option.

The Claimant agreed that a handwritten, signed Award may be entered.

AWARD

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

- 1) Respondent is liable to and shall pay Claimant the sum of \$33,493.01 in compensatory damages.
- 2) Respondent is liable to and shall pay Claimant the sum of \$10,000.00 in attorney's fees, pursuant to contract between the parties dated on or about April 5, 2000.
- 3) Except as set forth in paragraph 2, the parties shall bear their respective costs, including attorney's fees.
- 4) All other relief requested and not expressly granted is denied.

FEES

Pursuant to the 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	= \$ 875.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$1,000.00</u>
Total Member Fees	= \$2,625.00

Forum Fees and Assessments

The Arbitrator 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 arbitrator, including a pre-hearing conference, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing conference session with a single arbitrator @ \$450.00/session	= \$450.00
Pre-hearing conference: May 9, 2006 1 session	
One (1) Hearing sessions @ \$450.00/session	= \$450.00
Hearing: June 21, 2006 1 session	
Total Forum Fees	= \$900.00

The Arbitrator assessed the entire balance of the forum fees, in the amount of \$900.00 to Respondent Amador Vargas, Jr..

Fee Summary

1. Claimant Fidelity Brokerage Services, LLC is charged with the following fees and costs:

Initial Filing Fee	= \$ 1,000.00
Member Fees	= \$ 2,625.00
Total Fees	= \$ 3,625.00
Less payments	= \$(4,075.00)
Refund Due from NASD Dispute Resolution	= \$ (450.00)

2. Respondent Amador Vargas, Jr. is charged with the following fees and costs:

Forum Fees	= \$ 900.00
Less payments	= \$ (0.00)
Balance Due NASD Dispute Resolution	= \$ 900.00

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

Arbitrator's Norman R. Cohen

Public Arbitrator

Arbitrator's Signature



Norman R. Cohen
Public Arbitrator

6/26/06
Signature Date

6/26/06
Date of Service