

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between)
TED and SUSAN MALKASIAN,)
Claimants,)
vs.) Case #88-02905
FIDELITY BROKERAGE SERVICES, INC.) Award
and BARBARA GROSS,)
Respondents.)

Heard before the members of the Arbitration Panel:

Steven R. Reininger, Esq.
John de Leon, Esq.
S. Richard Savage

CASE SUMMARY

This claim was filed with the NASD, Inc. on September 15, 1988. The hearing was conducted in Fort Lauderdale, Florida on July 12, September 25 and November 29, 1989, with a total of five (5) sessions.

Claimants Ted and Susan Malkasian ("Malkasian") alleged that Respondents Fidelity Brokerage Services, Inc. ("Fidelity") and Barbara Gross ("Gross"): prevented him from obtaining vital margin information in violation of Section 11 of the NASD Rules of Fair Practice; prevented him from transacting option business in his account; failed to fully disclose the risks of options trading; that Respondent's actions constituted negligence; breach of fiduciary duty; and negligent supervision of Fidelity's employees. Respondents denied all allegations of wrongdoing; denied any liability to Claimant and requested dismissal of all claims.

RELIEF REQUESTED

Claimant requested damages in the amount of \$55,500.00 and punitive damages. Respondents requested dismissal of the Claim and a reasonable attorney's fee. Claimant dropped its claim under Section 517.301, Florida Statutes.

AWARD

On July 12, September 25 and November 29, 1989, the arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimants Ted Malkasian on September 9, 1988; Susan Malkasian in July, 1989; and by Respondents Barbara Gross on October 26, 1988; and, Fidelity on November 1, 1988. The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has determined in full and final resolution of the issues submitted for determination as follows:

1. 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. In either case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD, Inc.

2. Respondents, Fidelity and Gross, shall not be liable to the Claimants and, therefore, all claims against them are hereby dismissed.
3. The parties' request for attorneys' fees are hereby dismissed.
4. Claimants' request for punitive damages is hereby denied.
5. Pursuant to Section 43 of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of Twenty Five Hundred and 00/100 (\$2,500.00) Dollars (five sessions x \$500.00). Claimants are hereby assessed forum fees in the amount of Twelve Hundred Fifty and 00/100 (\$1,250.00) Dollars and the Respondent, Fidelity, is hereby assessed forum fees in the amount of Twelve Hundred Fifty and 00/100 (\$1,250.00) Dollars. The National Association of Securities Dealers, Inc. shall retain the Five Hundred and 00/100 (\$500.00) Dollar filing fee previously deposited by the Claimants with the NASD, Inc. in partial satisfaction of Claimants' portion of those fees.
6. The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding.

OTHER ISSUES

None.

ARBITRATORS CONCURRING

Steven R. Reininger Esq., John de Leon Esq., and S. Richard Savage.

Dated: December 19, 1989