

N.A.S.D.—AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Lane E. Harrison

vs.

91-01512

Name of Respondent

Fidelity Brokerage Services, Inc.

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REPRESENTATION

For Claimant: John Cione, Solana Beach, California.

For Respondent: Richard P. Murphy, Esq., Gray, Cary, Ames & Frye, San Diego, California.

CASE INFORMATION

Statement of Claim filed: May 15, 1991

Claimant's Submission Agreement signed on: May 3, 1991

Statement of Answer filed by Respondent on: July 23, 1991

Respondent's Submission Agreement signed on: July 22, 1991

at

HEARING INFORMATION

Prehearing Conference Date/Sessions: February 26, 1992 (1 session)

Hearing Date/Sessions: March 10, 1992 (1 session)  
March 30, 1992 (2 sessions)  
March 31, 1992 (3 sessions)

Hearing Location: San Diego, California

### CASE SUMMARY

Claimant alleged negligence, fraud, libel, breach of contract, business interference and failure to supervise with respect to his investments in the common stock of American Film Techs. Claimant specifically alleged Respondent failed to execute his order to sell in a "prompt, accurate" manner as advertised, causing a debit balance in his account.

Respondent denied all allegations, and asserted it had no obligation to execute any order to all; however, Respondent asserted that Claimant's order was promptly transmitted to a major market maker and the order was filled at prices and in quantities consistent with and confirmed by NASD inside market and transaction reports. Respondent asserted a counterclaim for the debit balance in Claimant's account.

### RELIEF REQUESTED

Claimant requested damages of \$30,000 plus interest, punitive damages, damages for harassment, defamation, attorney's fees and costs of arbitration.

Respondent requested dismissal of all claims and an award of \$2,818.04 on the counterclaim.

### OTHER ISSUES CONSIDERED & 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. In either case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD.

### AWARD

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

1. Respondent is liable for and shall pay to Claimant the sum of \$11,172 inclusive of interest and inclusive of a credit for \$2,818 awarded to Respondent on the counterclaim.
2. The claims for punitive damages, damages for defamation and other damages are dismissed.
3. The parties shall each bear their respective costs including attorneys' fees.

OTHER COSTS

None.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following forum fees are assessed:

Respondent is assessed forum fees of \$2,500, calculated as follows:

5 sessions x \$500/session = \$2,500  
Respondent is credited with \$300 hearing  
session deposit previously paid, leaving  
\$2200 due the NASD.

The NASD shall refund to Claimant the \$500  
hearing session deposit and the \$600 overpayment  
previously paid (\$1100 total refund).

Fees are payable to the National Association of Securities Dealers, Inc.

ARBITRATION PANEL

<u>Name</u>	<u>Public/Industry</u>
William R. Newsome	Public Arbitrator
Fred T. Kallet	Public Arbitrator
Michael Terry Hartman	Industry Arbitrator

Concurring Arbitrators' Signature

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William R. Newsome

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*Fred T. Kallet*  
Fred T. Kallet

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Michael Terry Hartman

DATE SERVED: 04/28/92

Date of Decision: 4/15/92