

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the matter of the Arbitration Between

Name of Claimant

Shashin N. Kadakia

NASD Arbitration
No. 93-01782

Name of Respondents

Fidelity Brokerage Services
Tom Simeone

REPRESENTATION

For Claimant: In Pro Se

For Respondents: In Pro Se

CASE INFORMATION

Statement of Claim filed: May 4, 1993

Claimant's Submission Agreement signed: December 29, 1992

Statement of Answer filed by Respondents: August 6, 1993

Submission Agreement filed by Respondent, Fidelity Brokerage Services, Inc. on August 6, 1993

Submission Agreement signed by Respondent, Thomas P. Simeone on August 6, 1993

HEARING INFORMATION

Pre-Hearing Conference Date / Session: None

Hearing Date / Sessions: February 1, 1994 - Two Sessions

Hearing Location: Los Angeles, California

CASE SUMMARY

Claimant, Shashin Kadakia (Kadakia) alleged against Respondents for negligence and breach of contract. Kadakia owned 100 shares of U. S. Surgical, which he bought through his account with Respondent, Fidelity. It is alleged that the Respondents gave conflicting advice and directions to claimant as to how much money was in his account to cover the purchase, resulting in a loss of \$1,284.72.

Respondents, answering jointly, denied that any misinformation was given to Kadakia and that the sale of the securities from Kadakia's account was the result of margin call transaction.

RELIEF REQUESTED

Claimant seeks monetary compensatory damages of \$1,284.72, from Fidelity Brokerage Services, Inc., for breach of contract, negligence and misrepresentation.

Respondents seek dismissal of the claim in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

The parties have agreed that the Award in this matter may be executed in either 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 original remains on file with the NASD.

The Arbitrator permitted the parties to file ~~post-hearing~~ post-hearing submissions.

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. Each and every claim of Claimant, Shashin Kadakia, against Respondent, Tom Paul Simeone, is dismissed.
2. Respondent, Fidelity Brokerage Services, Inc., is solely liable and shall pay to Claimant, Shashin Kadakia, the sum of Three Hundred Dollars and No Cents (\$300.00).
3. The parties shall each bear their respective costs and fees.

4. The NASD shall retain all fees and deposits.

FORUM FEES

No Additional Forum Fees Are Assessed.

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

ARBITRATOR

Name Public / Industry
Thomas M. Adams, Esq. Public

Concurring Arbitrators' Signature

Thomas M. Adams
Thomas M. Adams, Esq.

Date of Decision: April 18, 1994

Served 4/22/94