

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Girard Stewart/Stewart Family Trust

93-02225

Name of Respondent

Fidelity Brokerage Services, Inc.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on June 3, 1993, Claimant The Stewart Family Trust, who appeared Pro Se, alleged that Respondent Fidelity Brokerage Services, Inc. failed to provide proper, timely, or reasonable notice by which the Claimants could have responded to a redemption call on its Orion stock, which it held with the Respondent in streetname. The Claimant further alleged that the Respondent was grossly negligent in delaying for a period of over three weeks the mailing of the redemption notice, and that due to the wrongdoing of the Respondent it has incurred damages, for which the Respondent should be held liable.

Respondent Fidelity Brokerage Services, Inc., through its in-house representative, Carol S. Hobbs, Esq., maintained that each of the Claimant's claim is wholly unsupported by the facts, and that it properly administered the account and provided timely and reasonable notice of the redemption call. The Respondent also maintained that it received no response from the Claimant, and was forced to redeem the shares as required by the terms of the redemption. The Respondent contended that it sent written notification of the redemption call to the Claimant on January 12, 1993 and when it received no reply, an attempted telephone call was made, but there was no answer, or machine to leave a message. Respondent Fidelity Brokerage Services, Inc. further contended that it is not responsible for any events which may have led to the delay in the Claimant's receipt of the notice, and that it cannot be held liable in this matter.

RELIEF REQUESTED

Claimant Stewart Family Trust requested \$5,916.00 in actual damages, plus interest, costs and an unspecified amount of punitive damages.

Respondent Fidelity Brokerage Services, Inc. requested that the claims of the Claimant be dismissed.

AWARD

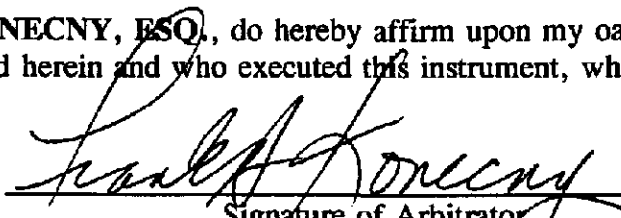
Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Frank A. Konecny, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on July 7, 1993 and by the Respondent on August 13, 1993.

And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondent Fidelity Brokerage Services, Inc. is liable and shall pay to Claimant Stewart Family Trust \$5,916.00 in actual damages.
2. Respondent Fidelity Brokerage Services, Inc. is liable and shall pay to Claimant Stewart Family Trust simple interest at the rate of 10% from January 1, 1993 to the date of payment of the award.
3. The Claimant's request for punitive damages is denied.
4. The parties shall bear their respective costs.
5. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc. Respondent Fidelity Brokerage Services, Inc. is liable and shall pay to Claimant Stewart Family Trust \$150.00 as reimbursement of the filing fee.

AFFIRMATION

I, FRANK A. KONECNY, ESQ., do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.



Signature of Arbitrator

DATE OF DECISION: February 4, 1994