

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Fidelity Brokerage Services, Inc.
National Financial Services Corp.

vs.

Case#
93-03211

Name of Respondent

Michael Hillman

REPRESENTATION

Claimants, Fidelity Brokerage Services, Inc. and National Financial Services Corp. ("Claimants"), Michael G. Shannon, Esq. of Phillips Lytle Hitchcock Blaine & Huber located in New York, New York.

Respondent, Michael Hillman ("Respondent") was not represented by counsel and did not appear at the hearing.

CASE INFORMATION

Statement of Claim was filed on August 17, 1993.
Claimants' Submission Agreement was signed on July 17, 1994.

Respondent did not file a Statement of Answer or execute a Submission Agreement.

HEARING INFORMATION

Hearing Date/Session: June 6, 1994 - 1 session.

Hearing Location: NASD, Inc.'s office located at 260 Franklin Street, Boston, Massachusetts.

CASE SUMMARY

Claimants allege that Respondent opened an Ultra Service Account which allowed Respondent check writing privileges and trading of securities on margin. Claimants also allege that Respondent deposited a check in the amount of \$42,500 and conducted several transactions in the account during February, 1993. Claimants further allege that the \$42,500 check deposited into the account by Respondent was dishonored because Respondent placed a stop payment order on it. Claimants state that they liquidated Respondent's account which resulted in a debit balance in the account in the amount of \$36,459.68. Claimants also state that they demanded payment and Respondent has refused to do so.

RELIEF REQUESTED

Claimants request an award of \$36,459.68 with interest at a rate of 5 1/2 percent per annum from January 31, 1993, all costs and attorney's fees.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart and they have also agreed to receive conformed copies of the Award while the originals remain on file with the NASD.

As stated earlier, Respondent did not file an answer nor appear at the hearing to defend this matter. Based upon documents submitted by the NASD concerning hearing notices to the parties and the documents filed by Claimants concerning notice to Respondent of this arbitration proceeding, this Panel finds that pursuant to Section 25 of the *Code of Arbitration Procedure* ("Code"), Respondent was notified of this hearing. Pursuant to Section 29 of the *Code*, this Panel proceeded with the hearing in his absence.

Claimants filed a Motion for a default judgment. This Panel reserved decision on this Motion during the hearing. After review of this Motion, this Panel denies this Motion based upon the fact that the arbitrators are not authorized to grant default judgments.

AWARD

After considering the pleadings, the testimony and the evidence presented at the

hearing, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent is hereby liable and shall pay Claimants **THIRTY SIX THOUSAND FOUR HUNDRED AND FIFTY NINE DOLLARS AND SIXTY EIGHT CENTS (\$36,459.68)** compensatory damages;
2. Respondent is also liable and shall pay Claimants **TWO THOUSAND FIVE HUNDRED AND SIX DOLLARS AND SIXTY CENTS (\$2506.60)** in interest;
3. Respondent is further liable and shall pay Claimants **NINE THOUSAND THREE HUNDRED AND NINETY ONE DOLLARS AND FIFTY CENTS (\$9,391.50)** in attorney's fees and costs;
4. All other claim for relief is denied.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed and shall be borne by Claimants.

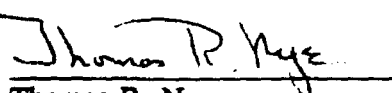
Non-refundable filing fee	-	\$500.00
Hearing session fee	-	\$600.00 (1 session x \$600)

Claimants previously paid \$1,100.00 which shall be retained by the NASD.

ARBITRATION PANEL

June Y. Kilmarx, Esq.	-	Public Chairperson
Thomas R. Nye	-	Public Panelist
James E. Fox	-	Industry Panelist

Concurring Arbitrator's Signature


Thomas R. Nye

Date of Decision: July 28, 1994

hearing, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent is hereby liable and shall pay Claimants **THIRTY SIX THOUSAND FOUR HUNDRED AND FIFTY NINE DOLLARS AND SIXTY EIGHT CENTS (\$36,459.68)** compensatory damages;
2. Respondent is also liable and shall pay Claimants **TWO THOUSAND FIVE HUNDRED AND SIX DOLLARS AND SIXTY CENTS (\$2506.60)** in interest;
3. Respondent is further liable and shall pay Claimants **NINE THOUSAND THREE HUNDRED AND NINETY ONE DOLLARS AND FIFTY CENTS (\$9,391.50)** in attorney's fees and costs,
4. All other claim for relief is denied.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed and shall be borne by Claimants.

Non-refundable filing fee	-	\$500.00
Hearing session fee	-	\$600.00 (1 session x \$600)

Claimants previously paid \$1,100.00 which shall be retained by the NASD.

ARBITRATION PANEL

June Y. Kilmarx, Esq.	-	Public Chairperson
Thomas R. Nye	-	Public Panelist
James E. Fox	-	Industry Panelist

Concurring Arbitrator's Signature



James E. Fox

Date of Decision: 7/28/94

hearing, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent is hereby liable and shall pay Claimants **THIRTY SIX THOUSAND FOUR HUNDRED AND FIFTY NINE DOLLARS AND SIXTY EIGHT CENTS (\$36,459.68)** compensatory damages;
2. Respondent is also liable and shall pay Claimants **TWO THOUSAND FIVE HUNDRED AND SIX DOLLARS AND SIXTY CENTS (\$2506.60)** in interest;
3. Respondent is further liable and shall pay Claimants **NINE THOUSAND THREE HUNDRED AND NINETY ONE DOLLARS AND FIFTY CENTS (\$9,391.50)** in interest, *attorney's fees and costs*;
4. All other claim for relief is denied.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed and shall be borne by Claimants.

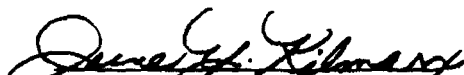
Non-refundable filing fee	-	\$500.00
Hearing session fee	-	\$600.00 (1 session x \$600)

Claimants previously paid \$1,100.00 which shall be retained by the NASD.

ARBITRATION PANEL

June Y. Kilmarx, Esq.	-	Public Chairperson
Thomas R. Nye	-	Public Panelist
James E. Fox	-	Industry Panelist

Concurring Arbitrator's Signature


June Y. Kilmarx, Esq.

Date of Decision: July 28, 1994