

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the matter of the Arbitration Between

Name of Claimant:

Robert M. Gromis, M. D., P. C.

NASD Arbitration

No. 93-03315

Name of Respondent

Fidelity Investments

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**REPRESENTATION**

For Claimant: Bette Gromis, Esq. - Los Angeles, Ca.

For Respondent: In Pro Se

**CASE INFORMATION**

Statement of Claim filed: August 24, 1993

Claimant's Submission Agreement signed: May 27, 1993

Statement of Answer filed by Respondent: November 10, 1993

Respondent's Submission Agreement signed:

**HEARING INFORMATION**

Pre-Hearing Conference Date / Session: None

Hearing Date / Sessions: March 24, 1993 - Two Sessions

Hearing Location: Los Angeles, California

### CASE SUMMARY

Claimant, Robert M. Gromis, M. D. (Gromis) seeks to recover damages from Respondent, Fidelity Investments (Fidelity) , for Respondent's alleged negligence in the loss of a deposit in the amount of \$24,548.30, which Gromis hand-delivered to Respondent for deposit into Gromis' account. Gromis is seeking damages for negligence, breach of contract, breach of implied covenant of good faith and fair dealings, conversion and punitive damages.

Respondent, Fidelity, alleged that Gromis' claim is without merit because Fidelity had no duty to reimburse him for the amount of the uncollected checks which he delivered to Fidelity's branch office and which were subsequently lost sometime during their overnight deliver to Fidelity's processing center. It is alleged that the checks were never received, processed or collected and therefore, Fidelity was never in possession of the funds Gromis seeks and which he claims Fidelity converted. It is also alleged that Fidelity never promised reimbursement for the uncollected funds or for expenses incurred when Gromis chose to undertake the collection himself.

### RELIEF REQUESTED

Claimant seeks to recover \$10,551.59, interest, costs and punitive damages.

Respondent seeks 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.

### 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, Fidelity Investments, is liable and shall pay to Claimant, Robert M. Gromis, M.D., the sum of One Thousand Seven Hundred Fifty Dollars and No Cents. (\$1,750.00).
2. Claimants claim for punitive damages is denied.

### FORUM FEES

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

1. Claimant is assessed the sum of \$400.00, representing fees for one hearing session.
2. Respondent is assessed the sum of \$400.00 representing fees for one hearing session. Fees are payable to the National Association of Securities Dealers, Inc.

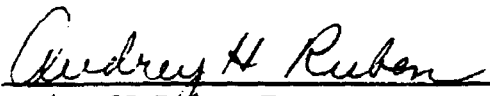
### ARBITRATORS

<u>Name</u> .....	<u>Public / Industry</u>
Donna M. Hostetler	Industry
Paulette D. Greenberg	Public
Audrey H. Ruben, Esq.	Public

### Concurring Arbitrators' Signatures

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Donna M. Hostetler

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Paulette D. Greenberg

  
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Audrey H. Ruben, Esq.

Serv 4/20/94

Date of Decision: \_\_\_\_\_