

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the matter of the Arbitration Between

Name of Claimant(s)

Gopalakrishnasastry Balasubramani
Lalitha Balasubramani
Krishna Balasubramani

NASD Arbitration
No. 93-04017

Name of Respondent(s)

Fidelity Investments

REPRESENTATION

For Claimants: Gopalakrishnasastry, Lalitha and Krishna
Balasubramani, Temecula, California

For Respondent: James T. Hannink, Esq., Gray Cary Ware &
Freidenrich, San Diego, California

CASE INFORMATION

Statement of Claim filed: September 29, 1993

Claimants' Submission Agreements signed as follows:

Gopalakrishnasastry Balasubramani: September 22, 1993
Lalitha Balasubramani: September 22, 1993
Krishna Balasubramani: October 15, 1993

Statement of Answer filed by Respondent: November 11, 1993

Respondent's Submission Agreement signed: November 12, 1993

HEARING INFORMATION

Pre-Hearing Conference Date(s)/Session(s): None

Hearing Date(s)/Session(s): June 29, 1994 (two sessions)

Hearing Location: Los Angeles, California

CASE SUMMARY

Claimants alleged that Respondent and their agents, fully

apprised of Claimants' status and family circumstances (a retiree on limited means with two college-bound sons), breached their fiduciary duty to Claimants by actively encouraging and extending margin facilities and option trades, causing Claimants to suffer a substantial financial hardship.

Respondent denied any liability to Claimants and alleged that Claimants signed account agreements clearly disclosing that Respondent is a discount brokerage which does not provide investment advice to its customers and that customer trading is entirely self-directed. Respondents further alleged that Claimants read and signed margin account agreements which disclosed the requirements and liabilities of margin accounts and that the Claimants themselves initiated and are responsible for their own trades which they alleged were unsuitable. Respondent further alleged that it cannot be held responsible for events beyond its control such as a decline in the value of stocks held by its customers due to market fluctuation.

RELIEF REQUESTED

Claimants requested:

1. Compensatory damages in the amount of \$47,258.00;
2. Interest from October 1987 to date;
3. Costs of this proceeding; and
4. Such other and further relief as the arbitration panel deems just and appropriate.

Respondent requested dismissal of Claimants' claims.

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 originals remain on file with the National Association of Securities Dealers, Inc. (NASD).

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, including the positions of the parties regarding the issue of the applicable statute of limitations, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. All claims by Claimants are dismissed.

2. The parties shall each bear their respective costs including attorney's fees.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following forum fees are assessed: The NASD shall retain the \$400.00 hearing session deposit previously deposited by the Claimants. Forum fees are to be split between the parties and are calculated as follows:

Two hearing sessions @ \$400.00/session	=	\$800.00
Total fees assessed	=	\$800.00
Claimants' share (50%)	=	\$400.00
Credit for hearing deposit	=	\$400.00
Balance due	=	\$ 0.00
Respondent's share (50%)	=	\$400.00
Balance due	=	\$400.00

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

ARBITRATORS

<u>Name</u>	<u>Public / Industry</u>
Don Sweeney, Esq.	Public Arbitrator
John L. Dampman	Public Arbitrator
Robert Taylor	Industry Arbitrator

Concurring Arbitrators' Signatures

Don Sweeney, Esq.

John L. Dampman

Robert Taylor

Date of Decision: _____