

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Gilbert Belair

94-00372

Name of Respondent

Fidelity Investments

REPRESENTATION

Claimant Gilbert Belair ("Belair") was represented at the hearing by Debra G. Speyer, Esq. of Philadelphia, Pennsylvania.

Respondent Fidelity Investments ("Fidelity") was represented at the hearing by Donna M. Dever, Esq. of Stradley Ronon Stevens & Young, of Philadelphia, Pennsylvania.

CASE INFORMATION

The Statement of Claim was filed with the NASD by Claimant Belair on January 31, 1994. The Uniform Submission Agreement was signed by Belair on November 15, 1993.

A Statement of Answer was filed by Respondent Fidelity Investments on March 15, 1994. The Uniform Submission Agreement was signed by Anne Marie Gillette, Product Manager, on behalf of Fidelity Investments on March 11, 1994.

HEARING INFORMATION

The hearing was held on December 15, 1994 at the Holiday Inn Downtown Center City, in Philadelphia, Pennsylvania for a total of two (2) hearing sessions.

CASE SUMMARY

Claimant, Gilbert Belair, alleged that Respondent, Fidelity Investments, failed to properly execute his order to purchase Fidelity's Select Savings & Loan Fund in violation of its contract with him, the federal securities laws, Pennsylvania securities laws, the Pennsylvania Unfair Trade Practices and Consumer Protection

Act and in breach of its fiduciary responsibilities.

Respondent maintained that it did properly refuse to execute the transaction requested because Claimant refused to pay the sales commission which was due on the transaction.

RELIEF REQUESTED

Claimant requested damages of \$31,090.05 for the difference in price of the Select Savings & Loan Fund on the day he first requested it, December 18, 1992, and the day Fidelity agreed to waive the sales commission, January 26, 1993. In addition, Claimant requested treble damages and attorney's fees pursuant to the Pennsylvania Unfair Trade Practices and Consumer Protection Act, interest running from December 18, 1992 and hearing costs.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart copies. The parties have also 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. Claimant is entitled to recover from Fidelity the difference in price of the Select Savings & Loan Fund between December 18, 1992, and January 1993, less the profits he earned in that period by stock trading (after giving him credit for commissions he paid Fidelity). Therefore, Respondent Fidelity Investments is liable for and shall pay to Claimant Gilbert Belair the sum of Twenty One Thousand, Two Hundred and Forty Six Dollars and Fifty Eight Cents (\$21,246.58).
2. Claimant is also entitled to prejudgment interest. Therefore, Respondent Fidelity Investments is liable for and shall pay to Claimant Gilbert Belair prejudgment interest in the sum of Two Thousand Five Hundred and Forty Nine Dollars and Fifty Nine Cents (\$2,549.59).
3. The parties shall each bear their respective costs, including attorneys' fees.

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4. Any relief not specifically provided for herein is denied.

FORUM FEES

Pursuant to Section 43(c) of the NASD Code of Arbitration Procedure, the following Forum Fees are assessed:

2 hearing sessions x \$400 = \$800.


Pursuant to Section 43(c) of the Code, the NASD shall retain the non-refundable filing fee in the amount of \$120 previously paid by Claimant, and shall refund the hearing session deposit of \$400 previously deposited by Claimant.

The panel has ordered that the Respondent pay forum fees to the NASD in the amount of \$800.

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

By The Arbitration Panel:

Dated: 11/7/95



Steven T. Stern, Esq., Presiding
Public Arbitrator

Joseph F. Lynch, Esq.
Public Arbitrator

Vernon C. Walker
Industry Arbitrator

Date Award Served By the NASD: 1-9-95

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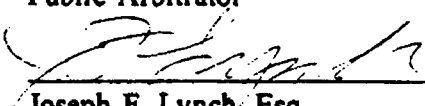
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By The Arbitration Panel:

Dated: _____

1/4/95

Steven T. Stern, Esq., Presiding
Public Arbitrator


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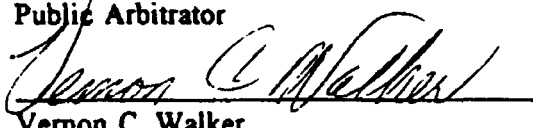
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