

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

William & Florence Rosenblitt

94-01239

Name of Respondents

Fidelity Investments

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on March 31, 1994, Claimants William & Florence Rosenblitt, who appeared Pro Se, alleged that on December 26, 1993 they placed an order with Respondent Fidelity Investments ("Fidelity") to sell 35,000 shares of River Oaks Industries, Inc. ("ROID") at \$.11 a share. Claimants further alleged that they attempted to cancel and replace this order, but their broker at Respondent could not find this order. Claimants contended they then placed a sell order of 36,000 shares of ROID at \$.10 a share, but Respondent refused it, stating that it could only enter an order in eights or sixteenths. Claimants further contended that their entire series of trades prior to December 26, 1993 had been in pennies. Claimants contended that their broker at Respondent placed a buy order for 40,000 shares of ROID when in fact they placed an order to sell ROID shares. Claimants further contended that Respondent and its broker conspired to produce a tape which would give the impression that a buy order was given, instead of a sell order. In their Response to Respondent's Answer, Claimants alleged that as soon as they found out that there was an error they asked to have the trade cancelled. Claimants further alleged that Respondent forced them to pay \$5,150.00 for stock purchased in their account due to Respondent's error. Claimants contended that they are planning to return the 40,000 shares of ROID they own, and that these shares have no value at this time. As a result of the above, Claimants alleged that they have suffered damages for which the Respondents should be held liable.

Respondent Fidelity Investments, through Fidelity's in-house counsel Anne Marie

Gillette, Esq., Boston, Massachusetts, maintained that Claimants placed a telephone order with Respondent for 40,000 shares of ROID. Respondent further maintained that before the order was placed the Claimants asked Respondent for a quote and was told that there was no "bid" but the "ask" was currently at 1/8 per share, and that based on this conversation Respondent reasonably believed that Claimant wanted to place a buy order. Respondent contended that after Claimants placed the order it verbally confirmed the order to Claimants stating "buy 40,000 shares", and then mentioned the wrong stock. Respondent further contended that Claimants then corrected Respondent on the name of the stock but did not suggest that their buy order should have been a sell order. Respondent maintained an order to buy 40,000 shares of ROID was then executed at 1/8 per share and a confirmation was sent out to the Claimants. Respondent further maintained that it properly placed the order as it was placed by the Claimants. Respondent contended that since the Claimants still own the 40,000 shares of ROID that they purchased, they have not incurred any loss. As a result of the above, Respondent contended that it should not be held liable in this matter.

RELIEF REQUESTED

Claimants William & Florence Rosenblitt requested \$7,675.00 in actual damages.

Respondent Fidelity Investments requested that the Claimant's Statement of Claim be dismissed in its entirety.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single public arbitrator, Dorothy F. Gray, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on March 19, 1994 and by the Respondent on June 1, 1994.

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:

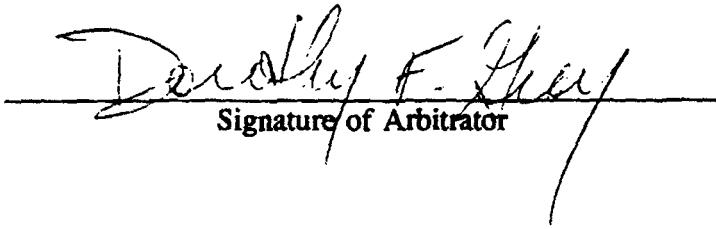
1. The claims of Claimants William & Florence Rosenblitt against Respondent Fidelity Investments are dismissed in their entirety.
2. The parties shall bear their respective costs.

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3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants shall be retained by the NASD, Inc.

AFFIRMATION

I, **DOROTHY F. GRAY, ESQ.**, do hereby affirm upon my oath of 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: September 6, 1994

STATE OF NY ss.:

COUNTY OF NY

On this 15 day of May 19 95, before me personally appeared to me known and known before me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

[Signature]

HAZEL GUELFNAZARIO
Notary Public, State of New York
NO. 244986738
Qualified in New York County
Commission Expires September 23, 1996