

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Amalia Wintner

94-02153

Name of Respondent(s)

Fidelity Investments Institutional Svcs
David Beechler
Sal LaBarbera

REPRESENTATION

For Claimant, Amalia Wintner ("Claimant"), Ralph A. Gant, Esq. located in New York, N.Y.

For Respondents, Fidelity Investments ("Fidelity"), David Beechler ("Beechler") and Sal LaBarbera, collectively ("Respondents"), Michael G. Shannon, Esq. of the firm Phillips, Lyle, Hitchcock, Blaine & Huber, located in New York, N.Y.

CASE INFORMATION

Statement of Claim filed: June 8, 1994

Claimant's Submission Agreement signed on: July 15, 1994

Joint Statement of Answer filed by Respondents: September 14, 1994

Respondent Fidelity's Submission Agreement signed on: September 14, 1994

Respondent Beechler's Submission Agreement signed on: July 27, 1994

Respondent LaBarbera's Submission Agreement signed on: July 27, 1994

HEARING INFORMATION

Pre-Hearing Conference: January 10, 1996

Hearing Date(s)/Sessions: October 9, 1995 - 2 sessions

February 13, 1996 - 2 sessions

Hearing Location: The hearings were held at the offices of the National Association of Securities Dealers located in New York, N.Y.

CASE SUMMARY

Claimants alleged that on March 2, 1994 she went to the offices of Respondent Fidelity for information regarding her monthly investment dividend and met with Respondent Beechler. Claimant further alleged that Beechler encouraged her to make a change because Fidelity's GNMA was not a good deal for her. Claimant contended that Beechler sold her a \$75,000.00 Certificate of Deposit (the "CD") issued by LaSalle National Bank and represented that this investment would earn her \$450.00 per month. Claimant further contended that at no time did Beechler inform her that she would be earning interest at the rate of 5.40% . Claimant alleged that on March 9, 1994 she opened the first document which had been sent to her by LaSalle National Bank and realized that the investment she now owned was not what she had discussed with Beechler. Claimant further alleged that she then dialed Fidelity's 800 number and was informed by a representative that there would be no problem transferring her money back to a GNMA without any penalties but when she spoke with Respondent LaBarbera on March 10, 1994, he informed her that there was a \$3,500.00 penalty plus a \$50.00 charge. Claimant contended that the papers she signed to purchase the CD had nothing on them but the dollar amount and the date and she never signed any other document. Claimant alleged that on May 31, 1994 her CD was sold and on June 9, 1994 she received a check for \$68,410.49, causing a loss for which Respondents should be held liable.

Respondents maintained that Claimant was fully informed in writing about the characteristics of the CD. Respondents further maintained that the CD was consistent with Claimant's stated investment objectives of preservation of capital and income. Respondents contended that Claimant read and signed the order ticket which contained all of the terms of the purchase of the CD. Respondents further contended that Claimant decided after the settlement date that she no longer wanted this CD and attempts to hold Respondents responsible because she incurred a penalty for selling the CD before maturity.

RELIEF REQUESTED

Claimant requested \$7,004.76 in actual damages, \$1,095.24 in interest, \$1342.55 in costs and \$500,000.00 in punitive damages.

Respondent(s) requested that the claims of the Claimant be dismissed.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this matter may be executed in 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 NASD.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrator(s) has/have decided in full and final resolution of the issues submitted for determination as follows:

- 1) All claims against Respondents Fidelity, Beechler and LaBarbera be and hereby are dismissed in their entirety.
- 2) Each party shall bear their respective costs, including attorney's fees.
- 3) Respondent Fidelity be and hereby is liable for all forum fees assessed.
- 4) All other claims be and hereby are denied.

FORUM FEES

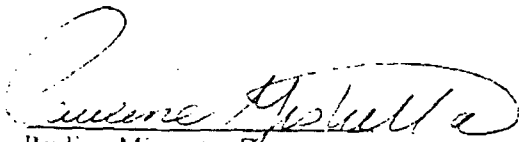
Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fee(s) are assessed.

non refundable filing fee:	\$250.00
4 hearing sessions x \$1,000.00:	\$4,000.00
total fees assessed:	\$4,250.00

- 1) Claimant previously deposited \$1,250.00 with the NASD.
- 2) Respondent Fidelity be and hereby is liable for \$1,250.00 payable to the Claimant and \$3,000.00 payable to the NASD.

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

Concurring Arbitrator's Signature
Name


Pauline Mistretta, Esq.

I, Pauline Mistretta, Esq., do hereby affirm that this is my decision in the above-captioned matter.

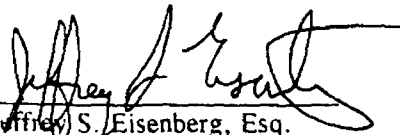
NASD Date of Decision: April 3, 1996

*Seen & before me this
25th day of March 1996.*

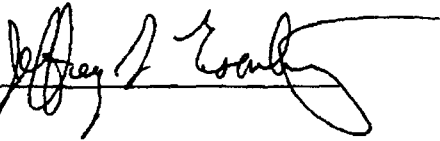


MICHAEL GREG ANTONY
Notary Public, State of New York
No. 4820362
Qualified in Kings County
Commission Expires Oct. 31, 1998 *6*

Concurring Arbitrator's Signature
Name

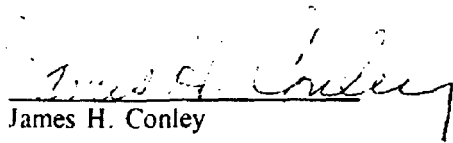

Jeffrey S. Eisenberg, Esq.

I, Jeffrey S. Eisenberg, Esq., do hereby affirm that this is my decision in the above-captioned matter.

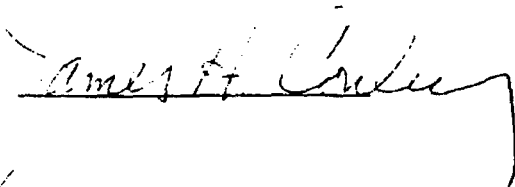


NASD Date of Decision: April 3, 1996

Concurring Arbitrator's Signature
Name


James H. Conley

I, James H. Conley, do hereby affirm that this is my decision in the above-captioned matter.



NASD Date of Decision: April 3, 1996