

N.A.S.D. AWARD**NATIONAL ASSOCIATION OF SECURITIES DEALERS**

In the Matter of the Arbitration Between

Name of Claimants

Donald W. and Debra L. Finney

95-00418

Name of Respondent

Fidelity Investments

REPRESENTATION

Claimants, Donald W. Finney and Debra Finney ("The Finneys"), appeared pro se.

Respondent, Fidelity Investments ("Fidelity"), was represented by Angela Paulsen and Rodney Acker of Jenkins and Gilchrist located in Dallas, Texas.

CASE INFORMATION

The Statement of Claim was filed by Claimants Donald W. and Debra Finney on January 23, 1995.

Claimants' Submission Agreement was signed on March 4, 1995.

The Statement of Answer was filed by Respondent on April 19, 1995.

Respondent Fidelity Investment's Submission Agreement was signed on April 17, 1995 by Suzanne Michaud, Senior Products Manager, of Fidelity Brokerage Services, Inc.

HEARING INFORMATION

The Hearing was held on August 29, 1995, and lasted for two hearing sessions.

The hearing was held in Dallas, Texas.

CASE SUMMARY

Claimants, the Finneys, alleged that someone other than Donald Finney signed his name to Claimants' joint margin account. The Finneys further alleged that Fidelity Investment's sellout of some of The Finneys' stock in order to meet Respondent's minimum maintenance account was inappropriate.

Respondent Fidelity denied that Donald Finney's signature on the joint margin account was a forgery. Respondent further alleged that even if the signature was shown to be a forgery, it did not know nor did it have reason to know of its falsity. Respondent also alleged that its maintenance call was justified and properly executed.

RELIEF REQUESTED

Claimants requested \$25,000.00 in damages.

Respondent requested that Claimants' claim 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 arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

- (1). That the claim filed by Claimants Donald and Debra Finney is denied and dismissed in its entirety;
- (2). Other than forum fees which are addressed below, the parties shall each bear their respective costs of the arbitration.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following forum fees are assessed: Two hearing sessions X \$400.00 per session = \$800.00. The National Association of Securities Dealers, Inc. shall retain the \$100.00 claim filing fee previously deposited by the Claimants. The previously waived hearing session deposit is now due and owing and is assessed against Claimants. Claimants are liable for and shall pay to the National Association of Securities dealers, Inc. the remaining forum fees in the amount of \$800.00.

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

Concurring Arbitrators' Signatures:

Name

/s/ P. Michael Armstrong
P. Michael Armstrong
Public Arbitrator
Chairperson

September 7, 1995
Dated

/s/ Donald Wright
Donald Wright
Public Arbitrator
Panelist

September 6, 1995
Dated

/s/ Henry Herman
Henry Hermann
Industry Arbitrator
Panelist

September 5, 1995
Dated

For NASD Use Only

Date of Decision: September 21, 1995