

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Roberta L. Clayton

95-01923

Name of Respondent

Fidelity Investments Institutional Services

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on April 20, 1995, Claimant Roberta L. Clayton ("Claimant"), who appeared Pro Se, alleged that Respondent Fidelity Investments Institutional Services ("Respondent"), failed to timely process her 401K rollover request to her detriment. Claimant further alleged that on August 26, 1994 she submitted the required form for a 401K plan rollover with Sprint Corporation/United Telephone ("Sprint") as is the procedure required for retirees. Claimant contended that because of communications from Sherry Chinchester ("Chinchester") of Sprint she thought the transfer was being processed. Claimant further contended that on August 30, 1994, Krista Scalzo faxed Brad Fields of Delta Financial Services, notification that the transfer would occur. Claimant alleged that on September 12, 1994, Chinchester was informed that there was a problem with the documents and that the transfer was not going to occur. Claimant further alleged that she should have been notified of the problem sooner than she was informed and that as she waited for the transfer the price of her Sprint stock was rapidly depreciating. Claimant contended that as a result of the above, she has suffered a loss for which the Respondent should be held liable.

Respondent Fidelity Investments Institutional Services, through its representative, Margaret H. Raymond, maintained that it was unable to process the Claimant's request for a rollover because it did not have a properly completed application in that the custodial institution was not properly named. Respondent further maintained that the Claimant was required to submit a written request through Sprint which is then sent to it. Respondent contended that Sprint states it never received the form which it returned and that Claimant did not raise any questions about the transfer until November of 1994. Respondent further contended that her account has not suffered any losses but is worth more today than it would have been if it had been processed as Claimant intended. Respondent maintained that as a result of the above, it should not be held liable.

RELIEF REQUESTED

Claimant Roberta L. Clayton, requested \$6,783.00 in actual damages.

Respondent Fidelity Investments Institutional Services, requested that the claims of the Claimant be dismissed.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrator considered and reviewed all documentation concerning Respondent's Motion to Dismiss pursuant to Section 12(b) of the NASD Code of Arbitration Procedure. The Arbitrator denied the Motion.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, O. Meredith Wilson, Jr., Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Roberta L. Clayton, on May 11, 1995, and not by the Respondent Fidelity Investments Institutional Services, as is required by Sections 12 and 13 of the NASD Code of Arbitration Procedure.

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 the Claimant Roberta L. Clayton, against Respondent Fidelity Investments Institutional Services, are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Roberta L. Clayton, shall be retained by the NASD, Inc.

AFFIRMATION

I, O. MEREDITH WILSON, JR., ESQ., do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.



O. Meredith Wilson, Jr., Esq.

DATE OF DECISION: January 3, 1995