

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF **SECURITIES DEALERS**

In the Matter of the Arbitration Between

Name of Claimant

Barbara X. Wiess as Personal Representative
of The Estate of Louis Zinman

96-01668

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Securities Dealers, Inc.

Name of Respondent

Fidelity Brokerage Services, Inc.

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CASE SUMMARY

In a case filed with the National Association of Securities Dealers, Inc. on April 17, 1996, claimant Barbara A. Wiess ("claimant"), as Personal Representative of The Estate of Louis Zinman ("The Estate"), who appeared Pro Se, alleged that respondent Fidelity Brokerage Services, Inc. ("FBS") sold holdings in The Estate's account for far less than the fair market value. Claimant further alleged that on January 31, 1996, The Estate received from FBS an Investment Report outlining the values of the account as \$141,628.20. Claimant also alleged that on February 12, 1996, the bonds in The Estate's account were sold at her direction. Claimant asserted that almost all the bonds were sold for or close to their January 31, 1996 value, except for two bond, The Florida State Div Bond Fin Dept General Services ("FSDBFDGS") and The Pasco Florida School Board Certificates of Participation ("PFSBCP"). Claimant further asserted that FSDBFDGS was rated AAA at 6.750% and was sold for more than \$500.00 less than its stated value. Claimant also asserted that PFSBCP was sold for more than \$1,000.00 less than its January 31, 1996 value. Claimant contended that she called Pershing Securities which quoted her a bid price of \$16,182.15 for PFSBCP, the same bond which FBS sold for \$15,318.87 not 24 hours earlier. Claimant further contended that when she questioned FBS regarding the huge disparity between the prices quoted on this bond, she was advised that FBS sold PFSBCP to itself as the market maker for what it said was a fair price. Claimant also contended that this transaction was not conducted in a professional manner taking into account the best interest of the account holder.

Respondent Fidelity Brokerage Services, Inc. ("respondent") through its representative an in-house counsel Alicia Reines-Leo, maintained that claimant received an appropriate amount for the bonds. Respondent further maintained that on February 12, 1996, claimant placed an unsolicited order to sell 10 FSDBFDGS and 15 PFSBCP. Respondent also maintained that the amount claimant received was determined by traders who base their "Firm Bid" on empirical evidence regarding the comparative value of similar bonds at the time of sale. Respondent contended that the value of a bond one day may differ significantly from their value the following day. Respondent further contended that "quotes" regarding a pricing of securities differ from "Firm Bids". Respondent also contended that the fact that claimant was quoted a higher price for the bonds by Pershing Securities or by respondent on her monthly report is not

determinative of the actual value or "Firm Bid" of the bonds as determined by the traders. Respondent maintained that it has attempted to explain these industry standards and practice to claimant repeatedly. Respondent further maintained that disclosed on the reverse side of the Monthly Statement an explanation of the meaning of the pricing of securities. Respondent also maintained that the disclosure notifies the customer that a monthly "pricing" is an evaluation and not a "Firm Bid" of Securities.

RELIEF REQUESTED

Claimant Barbara A. Wiess as Personal Representative of The Estate of Louis Zinman requested \$2,839.00, representing the fair market value of the bonds sold.

Respondent Fidelity Brokerage Services, Inc. requested that the claims of the claimant be dismissed in their entirety

AWARD

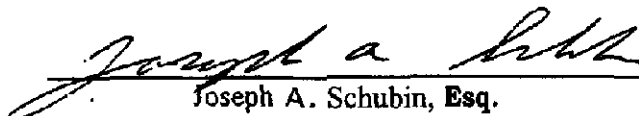
Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Joseph A. Schublin, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by claimant Barbara A. Weiss as Personal Representative of The Estate of Louis Zinman on April 12, 1996 and by respondent Fidelity Brokerage Services, Inc. on May 5, 1996 as 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 claimant Barbara A. Wiess as Personal Representative of The Estate of Louis Zinman against respondent Fidelity Brokerage Services, Inc. are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. The \$125.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the claimant Barbara A. Wiess as Personal Representative of The Estate of Louis Zinman shall be retained by the NASD, Inc.

AFFIRMATION

I, **JOSEPH A. SCHUBIN**, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my oath and award.


Joseph A. Schublin, Esq.

Date of Decision: September 13, 1996