

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Richard Scharff

96-02635

Name of Respondent(s)

Fidelity Brokerage Services, Inc.

REPRESENTATION

Claimant Richard Scharff ("Scharff") appeared pro se.

For Respondent Fidelity Brokerage Services, Inc. ("Fidelity"): Scott M. Diamond, Esq. of Morgan, Lewis & Bockius, LLP, Miami, Florida

CASE INFORMATION

Statement of Claim filed: June 19, 1996. Claimant's Submission Agreement signed on: June 10, 1996.

Statement of Answer filed by Respondent Fidelity on: August 14, 1996. Respondent Fidelity's Submission Agreement signed on: August 13, 1996 by Alicia Reines-Leo on behalf of Fidelity.

HEARING INFORMATION

On February 10, 1997 in Ft. Lauderdale, Florida a hearing lasting two sessions was conducted.

CASE SUMMARY

Claimant alleged that Respondent was liable for misrepresentation and failure to adequately explain the pricing of Zero Coupon Treasury Bonds. Claimant maintained that he was misled by Respondent's agent regarding the risk and volatility of this investment and was not advised of the fact that the bonds had two separate issues with different characteristics and different pricing. Claimant further alleged that the quote which was provided to him had no basis in fact and that Respondent should have known that Claimant misunderstood the nature of the pricing of the bonds when Respondent received his counterbid.

Respondent denied all allegations of wrongdoing and alleged that Claimant was not provided with any incorrect information and Respondent is a discount broker which only buys or sells securities in accordance with the customer's instructions. Respondent maintained that the sale was unsolicited; Claimant was not pressured into purchasing the bonds; Respondent gave Claimant accurate and fair quotes on the price of the bonds; and, Claimant purchased the bonds at a price that was better than the quote and better than his counterbid. Respondent further alleged that there was only one type of bond available to Claimant since the other type was not a standard type of bond but rather it was primarily an institutional bond which Respondent does not trade in.

RELIEF REQUESTED

Claimant requested rescission of the transaction.

Respondent requested dismissal of the claim plus costs, expenses and attorney's fees.

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. Respondent Fidelity is found not liable and, therefore, the claims against it are hereby dismissed.
2. Respondent's requests for costs, expenses and attorney's fees are denied.

FINDINGS OF FACT

After careful review the panel finds that the Respondent did not misrepresent or mislead Claimant. The panel finds that the misunderstanding was based on Claimant's inexperience and lack of understanding in investing in a different form of a broad category of investment vehicles.

OTHER COSTS

Other than the forum fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding.

FORUM FEES

Pursuant to Rule 10332(c) of the NASD Code of Arbitration Procedure, the panel has assessed forum fees in the amount of \$1,200.00 (two sessions x \$600.00 per session).

1. Claimant is hereby assessed \$1,200.00 for which the NASD shall retain the \$600.00 previously deposited by Claimant in partial satisfaction thereof, leaving a balance due to the NASD of \$600.00.
2. The NASD shall retain the \$250.00 non-refundable filing fee previously paid by Claimant to the NASD.

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

Concurring Arbitrators' Signatures
Name

Public/Industry

_____/s/_____
John B. Kelley, Esq.

Public/Chairman

_____/s/_____
Jacob I. Levine

Public

_____/s/_____
Lester H. Weinberg

Industry

Date of Decision: March 4, 1996