

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Claudine Webb

Case Number: 19-01960

vs.

Respondent
Fidelity Brokerage Services LLC

Hearing Site: Atlanta, Georgia

Awards are rendered by independent arbitrators who are chosen by the parties to issue final, binding decisions. FINRA makes available an arbitration forum—pursuant to rules approved by the SEC—but has no part in deciding the award.

Nature of the Dispute: Customer vs. Member

This case was decided by an all-public panel.

The evidentiary hearing was conducted partially by videoconference.

REPRESENTATION OF PARTIES

For Claimant Claudine Webb (“Claimant”): Alex B. Kaufman, Esq., Kaufman & Forman, P.C., Atlanta, Georgia.

For Respondent Fidelity Brokerage Services LLC (“Respondent”): Theodore J. Sawicki, Esq. and Sierra Shear, Esq., Alston & Bird LLP, Atlanta, Georgia.

CASE INFORMATION

Statement of Claim filed on or about: July 15, 2019.
Claimant signed the Submission Agreement: July 15, 2019.

Statement of Answer filed on or about: September 10, 2019.
Respondent signed the Submission Agreement: September 10, 2019.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: conversion; and pain and suffering. The causes of action relate to restricted access to funds in Claimant’s accounts for a period of six months.

In the Statement of Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. Compensatory damages in the amount of \$31,905.71 for Respondent's conversion of Claimant's assets;
2. Consequential damages in the amount of \$215,000.00 for Respondent's conversion of Claimant's assets;
3. Damages for Claimant's pain and suffering in the amount of \$1,000,000.00;
4. Punitive damages in an amount to be determined by the Panel;
5. Attorneys' fees and costs; and
6. Such other and further relief as the Panel deems appropriate.

In the Statement of Answer, Respondent requested:

1. Claimant take nothing by her Statement of Claim in this action;
2. The Statement of Claim be dismissed with prejudice;
3. Respondent recover its costs in this action; and
4. Such other and further relief as the Panel deems just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrators acknowledge that they have each read the pleadings and other materials filed by the parties.

On October 27, 2021, Claimant submitted a Motion for an Amended Statement of Claim. On November 5, 2021, Respondent opposed the motion. On November 16, 2021, the Panel granted the motion during the evidentiary hearing. As such, Claimant's additional claim of breach of fiduciary duty was considered.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and any post-hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent is liable for and shall pay to Claimant the sum of \$20,000.00 in compensatory damages, for pain and suffering for dental problems that remained unresolved after April 9, 2018 until June 8, 2018.
2. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages, and attorneys' fees, are denied.

FEES

Pursuant to the Code of Arbitration Procedure ("Code"), the following fees are assessed:

Filing Fees

FINRA Dispute Resolution Services assessed a filing fee* for each claim:

Initial Claim Filing Fee = \$ 2,000.00

**The filing fee is made up of a non-refundable and a refundable portion.*

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person at the time of the event giving rise to the dispute. Accordingly, as a party, Respondent is assessed the following:

Member Surcharge = \$ 3,025.00

Member Process Fee = \$ 6,175.00

Discovery-Related Motion Fees

Fees apply for each decision rendered on a discovery-related motion.

One (1) decision on a discovery-related motion on the papers with one (1) Arbitrator @ \$200.00/decision = \$ 200.00

Claimant submitted one (1) discovery-related motion

Total Discovery-Related Motion Fees = \$ 200.00

The Panel has assessed the total discovery-related motion fees to Claimant.

Contested Motion for Issuance of Subpoena Fees

Fees apply for each decision on a contested motion for the issuance of a subpoena.

Three (3) decisions on contested motions for the issuance of a subpoena with one Arbitrator @ \$200.00 = \$ 600.00

Total Contested Motion for Issuance of Subpoena Fees = \$ 600.00

The Panel has assessed \$400.00 of the contested motion for issuance of subpoena fees to Claimant.

The Panel has assessed \$200.00 of the contested motion for issuance of subpoena fees to Respondent.

Hearing Session Fees and Assessments

The Panel has assessed hearing session fees for each session conducted. A session is any meeting between the parties and the Arbitrator(s), including a pre-hearing conference with the Arbitrator(s), which lasts four (4) hours or less. Fees associated with these proceedings are:

Five (5) pre-hearing sessions with the Panel @ \$1,400.00/session = \$ 7,000.00
Pre-Hearing Conferences: November 4, 2019 1 session

May 8, 2020	1 session
July 31, 2020	1 session
December 1, 2020	1 session
April 13, 2021	1 session

Nine (9) hearing sessions @ \$1,400.00/session		= \$ 12,600.00
Hearings:		
November 16, 2021	2 sessions	
November 17, 2021	2 sessions	
November 18, 2021	2 sessions	
November 19, 2021	3 sessions	

Total Hearing Session Fees	= \$ 19,600.00
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The Panel has assessed \$9,800.00 of the hearing session fees to Claimant.

The Panel has assessed \$9,800.00 of the hearing session fees to Respondent.

All balances are payable to FINRA Dispute Resolution Services and are due upon receipt.

ARBITRATION PANEL

James C. Hoover	-	Public Arbitrator, Presiding Chairperson
John James Rubin	-	Public Arbitrator
Rebekah Ratliff	-	Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm that I am the individual described herein and who executed this instrument, which is my award.

Concurring Arbitrators' Signatures

James C. Hoover

James C. Hoover
Public Arbitrator, Presiding Chairperson

11/29/2021

Signature Date

John James Rubin

John James Rubin
Public Arbitrator

11/24/2021

Signature Date

Rebekah Ratliff

Rebekah Ratliff
Public Arbitrator

11/29/2021

Signature Date

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November 29, 2021

Date of Service (For FINRA Dispute Resolution Services use only)