

**Award**  
**FINRA Dispute Resolution Services**

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In the Matter of the Arbitration Between:

Claimant  
Michele Gray

Case Number: 20-03308

vs.

Respondent  
Fidelity Brokerage Services LLC

Hearing Site: Albany, New York

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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 a majority-public panel.

The evidentiary hearing was conducted by videoconference.

**REPRESENTATION OF PARTIES**

Claimant Michele Gray appeared pro se.

For Respondent Fidelity Brokerage Services LLC: Nikolas S. Komyati, Esq., Bressler, Amery & Ross, P.C., New York, New York.

**CASE INFORMATION**

Statement of Claim filed on or about: October 4, 2020.

Claimant's Reply to Statement of Answer filed on or about: November 29, 2020.

Michele Gray signed the Submission Agreement: September 18, 2020.

Statement of Answer filed by Respondent on or about: November 25, 2020.

Fidelity Brokerage Services LLC signed the Submission Agreement: November 25, 2020.

**CASE SUMMARY**

In the Statement of Claim, Claimant asserted the following causes of action: breach of fiduciary duty; breach of contract; negligence; and intentional infliction of emotional distress. The causes of action relate to Respondent improperly and negligently closing Claimant's accounts.

Unless specifically admitted 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: reinstatement of accounts or in the alternative, \$500,000.00 in compensatory damages and \$1,000,000.00 in punitive damages.

In the Statement of Answer, Respondent requested that Claimant's claim be dismissed in its entirety; any recovery be denied; and assess all forum fees and costs to Claimant.

### **OTHER ISSUES CONSIDERED AND DECIDED**

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

A Statement of Claim was filed on September 18, 2020. It was not served on Respondent and not considered by the Arbitrator.

At the conclusion of Claimant's case-in-chief, Respondent made a Motion to Dismiss. After due deliberation, the Panel denied Respondent's Motion to Dismiss.

The Award in this matter may be executed in counterpart copies.

### **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. Claimant's claims are denied in their entirety.
2. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages, 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
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*\*The filing fee is made up of a non-refundable and a refundable portion.*

FINRA Dispute Resolution Services previously deferred Claimant's filing fee of \$2,000.00. Upon conclusion of the matter, the Panel determined to waive the \$600 non-refundable portion of the fee.

**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

**Postponement Fees**

Postponements granted during these proceedings for which fees were assessed or waived:

October 12, 2021, postponement requested by Respondent	= \$	1,400.00
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Total Postponement Fees	= \$	1,400.00

The Panel has assessed the total postponement 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 Arbitrators, including a pre-hearing conference with the Arbitrators, which lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) pre-hearing sessions with a single Arbitrator @ \$450.00/session	= \$	900.00
Pre-Hearing Conferences: June 15, 2021	1 session	
July 8, 2021	1 session	
One (1) pre-hearing session with the Panel @ \$1,400.00/session	= \$	1,400.00
Pre-Hearing Conference: February 3, 2021	1 session	
One (1) hearing session @ \$1,400.00/session	= \$	1,400.00
Hearing: October 12, 2021	1 session	
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Total Hearing Session Fees	= \$	3,700.00

The Panel has assessed \$2,075.00 of the hearing session fees to Claimant.

The Panel has assessed \$1,625.00 of the hearing session fees to Respondent.

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

**ARBITRATION PANEL**

Richard Gee	-	Public Arbitrator, Presiding Chairperson
Keely D. Parr	-	Public Arbitrator
David J. Pine	-	Non-Public Arbitrator

I, the undersigned Arbitrator, 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 award.

**Concurring Arbitrators' Signatures**

***Richard Gee***

Richard Gee  
Public Arbitrator, Presiding Chairperson

**10/19/2021**

Signature Date

***Keely D. Parr***

Keely D. Parr  
Public Arbitrator

**10/20/2021**

Signature Date

***David J. Pine***

David J. Pine  
Non-Public Arbitrator

**10/18/2021**

Signature Date

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October 21, 2021

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