

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
David Bolls

Case Number: 20-03627

vs.

Respondents
Fidelity Brokerage Services LLC
National Financial Services LLC

Hearing Site: Washington, D.C.

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. Members

This case was decided by an all-public panel.

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimant David Bolls: Jonathan Bolls, Esq., Springfield, Virginia.

For Respondents Fidelity Brokerage Services LLC, and National Financial Services LLC: Nikolas S. Komyati, Esq., Bressler, Amery & Ross, P.C. Florham Park, New Jersey.

CASE INFORMATION

Statement of Claim filed on or about: October 26, 2020.

David Bolls signed the Submission Agreement: October 24, 2020.

Joint Statement of Answer filed by Respondents on or about: December 16, 2020.

Fidelity Brokerage Services LLC signed the Submission Agreement: December 15, 2020.

National Financial Services LLC signed the Submission Agreement: December 15, 2020.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: negligent handling of accounts; gross negligence; breach of fiduciary duty; breach of contract; and civil theft or conversion. The causes of action relate to the alleged unlawful liquidation of Novavax (Nasdaq: NVAX) stock.

Unless specifically admitted in the Statement of Answer, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. Award actual and compensatory damages in the amount of \$182,725.00 as derived from the following:
 - a. \$138,725.00 for the difference between the liquidation process of the 775 shares sold and the highest intermediate process reached by the identical shares during a reasonable period after the wrongful sale, or, alternatively rescission of the liquidated trades; and
 - b. \$44,000.00 for compensatory damages;
2. Award other damages in the amount of \$42,525.00, the current value of the 225 shares that remained following the forced liquidation, which Claimant had to sell off to mitigate damages;
3. Award punitive damages in the amount of \$72,000 as it pertains to Counts II, III and V in the Statement of Claim;
4. Treble damages in the amount of \$594,000.00 as it pertains to Counts II, III, and V in the Statement of Claim;
5. Award litigation costs, expenses, attorney fees, prejudgment interest, and post-judgment interest;
6. Declare Respondents' conduct in violation of the spirit and letter of the Securities Exchange Act of 1934, as amended; and
7. Grant such other and further relief as deemed just and proper.

In the Statement of Answer, Respondents requested that the relief requested in the Statement of Claim be denied in all aspects.

At the hearing, Claimant requested: compensatory damages in the range of \$135,000.00 to \$155,000.00, as well as attorneys' fees and punitive damages double or triple the compensatory damages under Massachusetts Consumer Protection Act chapter 93A.

OTHER ISSUES CONSIDERED AND DECIDED

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

On October 29, 2021, Claimant filed a Motion for a Remote Hearing. Respondents took no position on the motion. On November 3, 2021, the Panel granted the Motion for a Remote Hearing.

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, treble 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 = \$ 1,725.00

**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 firms that employed the associated person at the time of the events giving rise to the dispute. Accordingly, as parties, Respondents are each assessed the following:

Member Surcharge = \$ 2,475.00
Member Process Fee = \$ 5,075.00

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 \$150.00 of the discovery-related motion fees to Claimant.

The Panel has assessed \$50.00 of the discovery-related motion fees jointly and severally to Respondents.

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:

One (1) pre-hearing session with the Panel @ \$1,300.00/session = \$ 1,300.00
Pre-Hearing Conference: February 23, 2021 1 session

Four (4) hearing sessions @ \$1,300.00/session = \$ 5,200.00
Hearings: November 8, 2021 2 sessions
November 9, 2021 2 sessions

Total Hearing Session Fees = \$ 6,500.00

The Panel has assessed \$5,850.00 of the hearing session fees to Claimant.

The Panel has assessed \$650.00 of the hearing session fees jointly and severally to Respondents.

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

ARBITRATION PANEL

Richard P. Regan	-	Public Arbitrator, Presiding Chairperson
Francis Henry Dong	-	Public Arbitrator
Richard J Thomas	-	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

Richard P. Regan

Richard P. Regan
Public Arbitrator, Presiding Chairperson

11/15/2021

Signature Date

Francis Henry Dong

Francis Henry Dong
Public Arbitrator

11/16/2021

Signature Date

Richard J Thomas

Richard J Thomas
Public Arbitrator

11/15/2021

Signature Date

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.

November 16, 2021

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