

**Award**  
**NASD Dispute Resolution, Inc.**

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In the Matter of the Arbitration Between

Name of Claimant

David A. Stevens

Case No. 00-04277

Name of Respondent

Anchor Management Group, Inc.

Hearing Site: Tampa, Florida

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**REPRESENTATION OF PARTIES**

For David A. Stevens hereinafter referred to as "Claimant": James H. Fallace, Esq. of Fallace & Associates, P.A., Melbourne, FL.

For Anchor Management Group, Inc. ("Anchor") hereinafter referred to as "Respondent": Justin Kam, Esq. of Stein, Rosenberg & Winikoff, P.A., Ft. Lauderdale, FL.

**CASE INFORMATION**

Statement of Claim filed on or about: September 27, 2000.

Claimant signed the Uniform Submission Agreement: October 13, 2000.

Answer and Affirmative Defenses to Respondent's Counterclaim filed on or about: May 29, 2001.

Statement of Answer filed by Respondent on or about: November 30, 2000.

Respondent, Anchor Management Group, Inc.'s Counterclaim filed on or about: April 25, 2001.

Respondent signed the Uniform Submission Agreement: November 17, 2000.

**CASE SUMMARY**

Claimant asserted the following causes of action: breach of contract and breach of duty to act in good faith. The causes of action relate to the termination of Claimant's employment with Respondent.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses: Respondent is entitled to a setoff and Respondent is entitled to perform an accounting of Claimant's commissions prior to disbursing any payments owed to Claimant.

In its counterclaim, Respondent asserted that Claimant is indebted to Respondent pursuant to Claimant's independent contractor agreement. The cause of action relates to the termination of Claimant's employment with Respondent.

Unless specifically admitted in its Answer to the counterclaim, Claimant denied the allegations made in the counterclaim and asserted the following defenses: Respondent is barred from filing the counterclaim; Respondent breached its duty to act in good faith; Respondent is estopped from bringing the instant action; Respondent has waived the right to bring the instant action; and, Respondent failed to mitigate its damages.

#### **RELIEF REQUESTED**

Claimant requested compensatory damages of \$100,000.00, costs, attorneys' fees, dismissal of Respondent's counterclaim, and such other relief to which Claimant is entitled.

Respondent requested compensatory damages of \$2,757.26, attorneys' fees, dismissal of the Statement of Claim, and any other relief the Panel deemed just and proper.

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

During the evidentiary hearing, the parties submitted to the Panel the issues of entitlement to and amount, if any, of attorneys' fees to be awarded to the parties in the above-referenced matter.

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.

#### **AWARD**

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

Respondent is liable and shall pay to Claimant compensatory damages in the amount of \$29,832.45 for wages earned and not paid.

Respondent is liable and shall pay to Claimant attorneys' fees in the amount of \$11,602.75 pursuant to the case of Marshall Cassedy vs. Merrill Lynch.

Respondent is liable and shall pay to Claimant the sum of \$225.00 representing reimbursement of the claim filing fee previously paid by Claimant to NASD Dispute Resolution, Inc.

Respondent's counterclaim is dismissed in its entirety.

Any and all relief requests not specifically addressed herein, are denied.

#### **FEES**

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

assessed:

**Filing Fees**

NASD Dispute Resolution, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$225.00
Counterclaim filing fee	= \$400.00

**Member Fees**

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm is a party.

Member surcharge	= \$1,000.00
Pre-hearing process fee	= \$600.00
Hearing process fee	= \$1,500.00

**Adjournment Fees**

Adjournments requested during these proceedings:

No requests for adjournment were granted in this matter.

**Forum Fees and Assessments**

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

One (1) Pre-hearing session with Panel x \$750.00	= \$750.00
Pre-hearing conference: May 30, 2001 1 session	
Four (4) Hearing sessions x \$750.00	= \$3,000.00
Hearing Dates: September 5, 2001 2 sessions	
September 6, 2001 2 sessions	
<hr/> Total Forum Fees	<hr/> = \$3,750.00

The Panel has assessed the total forum fees of \$3,750.00 to Respondent Anchor.

**Administrative Costs**

Administrative costs are expenses incurred due to a request by a party for special services including, but not limited to, additional copies of arbitrator awards beyond those provided without charge, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred in this matter.

**FEE SUMMARY**

Claimant be and hereby is solely liable for:

Initial Filing Fee = \$225.00

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Total Fees = \$225.00

Less payments = \$225.00

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Balance Due NASD Dispute Resolution, Inc. = \$0.00

Respondent be and hereby is solely liable for:

Counterclaim Filing Fee = \$400.00

Member Fees = \$3,100.00

Forum Fees = \$3,750.00

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Total Fees = \$7,250.00

Less payments = \$0.00

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Balance Due NASD Dispute Resolution, Inc. = \$7,250.00

All balances are payable to NASD Dispute Resolution, Inc. and are due immediately upon receipt of the Award by the parties pursuant to Rule 10330(g) of the Code.

**ARBITRATION PANEL**

Elizabeth A. Akom	-	Non-Public Arbitrator, Presiding Chair
Michael N. Gonatos	-	Non-Public Arbitrator
Lewis W. Slaughter	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

/s/

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Elizabeth A. Akom  
Non-Public Arbitrator, Presiding Chair

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Signature Date

/s/

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Michael N. Gonatos  
Non-Public Arbitrator

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Signature Date

/s/

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Lewis W. Slaughter  
Non-Public Arbitrator

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Signature Date

October 12, 2001

Date of Service (For NASD-Dispute Resolution office use only)

NASD Dispute Resolution, Inc.

Arbitration No. 00-04277

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**Concurring Arbitrators' Signatures**Elizabeth A. Akom  
Non-Public Arbitrator, Presiding Chair  
Signature Date

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Michael N. Gonatos  
Non-Public Arbitrator

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Signature Date

NASD Dispute Resolution, Inc.  
Arbitration No. 00-04277  
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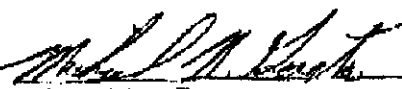
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**Concurring Arbitrators' Signatures**

Elizabeth A. Akom  
Non-Public Arbitrator, Presiding Chair

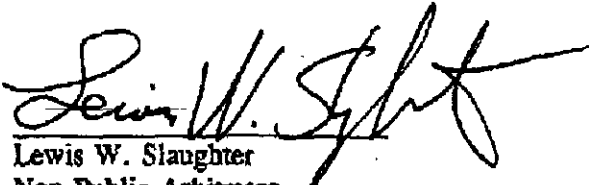
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Signature Date

  
Michael N. Gonatos  
Non-Public Arbitrator

10-12-01  
Signature Date

NASD Dispute Resolution, Inc.  
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Lewis W. Slaughter  
Non-Public Arbitrator

10/12/01  
Signature Date

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