

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between

Name of Claimant

John W. Logan

Case No. 00-05216

Name of Respondents

Gordon H. Thompson; and
Brent G. Thompson

Hearing Site: Nashville, Tennessee

REPRESENTATION OF PARTIES

Claimant John W. Logan ("Logan") was represented by Nader Baydoun, Esq. of the firm of Baydoun & Reese, located in Nashville, Tennessee.

Respondents Gordon H. Thompson ("G. Thompson") and Brent G. Thompson ("B. Thompson") were represented by Tyree B. Harris, IV, Esq. of the firm of Willis & Knight, located in Nashville, Tennessee.

CASE INFORMATION

Statement of Claim filed on or about: November 22, 2000.

Claimant signed the Uniform Submission Agreement: October 30, 2000.

Respondents filed a Statement of Answer on or about: December 27, 2001.

Respondents did not file executed Uniform Submission Agreements.

Respondents' Request for Dismissal filed on or about: July 31, 2001.

Claimant's Response to Request for Dismissal filed on or about: August 20, 2001.

Claimant's Motion to Bar Presentation of Any Matter, Arguments or Defenses was filed on or about: December 11, 2001.

Respondents Response to the Motion to Bar filed on or about: December 27, 2001.

Claimant's Reply in Support of Motion to Bar filed on or about: December 28, 2001.

CASE SUMMARY

Claimant asserted that the Respondents breached the employment contract entered into by the parties, entitling Logan to recover damages for breach of contract; breach of the obligation of

good faith and fair dealing; and breach of fiduciary duty. At hearing, the Claimant sought recovery on three elements of damages: 1) A portion of a retention bonus received by Respondents; 2) A portion of commissions due under contract; and 3) Reimbursement for a customer settlement.

Unless specifically admitted in its Answer, Respondents denied the allegations made in the Statement of Claim and asserted that the claim must be dismissed because the forum selection clause contained in the agreement mandated that Logan's exclusive remedy, if any, is within the state or federal courts in Davidson County, Tennessee.

RELIEF REQUESTED

Claimant requested compensatory damages in an amount sufficient to compensate Logan for the future payments Logan would have expected if Respondents fulfilled their contractual obligations, plus for the sums Logan was due for finder's fees and retention fees earned for the clients Logan brought to the Respondents, these amounts totaling approximately \$750,000.00; punitive damages for Respondents' willful and abusive misconduct in the sum of approximately \$750,000.00; pre-judgment interest; costs and attorneys' fees.

Respondents requested that the claim be dismissed pursuant to Rule 10305 of the Code of Arbitration Procedure.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents did not file with NASD Dispute Resolution, Inc. a properly executed submission to arbitration but are required to submit to arbitration pursuant to the Code and, having appeared and testified at the hearing, are bound by the determination of the Panel on all issues submitted.

On August 27, 2001, the panel heard argument on Respondents' Request for Dismissal based upon the existence of a forum selection clause in the agreement executed by the parties. After reviewing the papers filed by the parties and the arguments presented at the pre-hearing, the panel determined that the Request for Dismissal was denied and ordered the Respondents to file an answer to the Statement of Claim within 45 days.

At hearing on January 8, 2002, the panel heard argument on the Motion to Bar submitted by Claimant due to the Respondents' failure to timely file an answer to the Statement of Claim. The motion was granted. A hearing proceeded on the issue of damages. The Claimant sought recovery on three elements of damages: 1) A portion of a retention bonus received by Respondents; 2) A portion of commissions due under contract; and 3) Reimbursement for a customer settlement.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and the pre-hearing briefs, the Panel has decided in full and final resolution of the issues submitted for

determination as follows:

1. Respondents Gordon H. Thompson and Brent G. Thompson are jointly and severally liable for and shall pay to Claimant John W. Logan the sum of \$67,510.00 as damages for commissions due under contract;
2. In addition, Respondents Gordon H. Thompson and Brent G. Thompson are jointly and severally liable for and shall pay to Claimant John W. Logan the sum of \$5,500.00 as compensatory damages;
3. The claims regarding the retention bonus are dismissed and denied;
4. The parties shall bear their own costs of arbitration, including any attorneys' fees; and,
5. Any and all relief not specifically addressed herein, including punitive damages, is denied.

FEES

Pursuant to 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	= \$500.00
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Adjournment Fees

Adjournments requested during these proceedings: None.

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:

Two (2) Pre-hearing sessions with Panel x \$1,200.00	= \$ 2,400.00
Pre-hearing conferences:	
July 18, 2001	1 session
August 27, 2001	1 session
Three (3) Hearing sessions x \$1,200.00	= \$ 3,600.00
Hearing Dates:	
January 8, 2002	1 session
January 9, 2002	2 sessions
<hr/> Total Forum Fees	<hr/> = \$ 6,000.00

The panel has assessed \$3,000.00 of the forum fees to Claimant John W. Logan and \$3,000.00 of the forum fees jointly and severally to Respondents Gordon H. Thompson and Brent G. Thompson.

FEES SUMMARY

Claimant John W. Logan is solely liable for:

Initial Filing Fee	= \$ 500.00
Forum Fees	= \$ 3,000.00
Total Fees	= \$ 3,500.00
Less payments	= \$ 1,700.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 1,800.00

Respondents Gordon H. Thompson and Brent G. Thompson are jointly and severally liable for:

Forum Fees	= \$ 3,000.00
Less payments	= \$.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 3,000.00

All balances are due to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

Milton H. Sitton, Esq. - Non-Public Arbitrator, ~~Presiding Chair~~

Ronald T. Klimas, Esq. - Non-Public Arbitrator

James T. Ritt, Esq. - Non-Public Arbitrator

Concurring Arbitrators' Signatures



Milton H. Sitton, Esq.

Non-Public Arbitrator, ~~Presiding Chair~~

February 11, 2002
Signature Date

Ronald T. Klimas, Esq.
Non-Public Arbitrator

Signature Date


Dissenting Arbitrator's Signature

I respectfully dissent from the portion of the award awarding Claimant the sum of \$67,510.00 in compensatory damages for commissions due under the contract. I concur in all remaining decisions.

James T. Ritt, Esq.
Non-Public Arbitrator

Signature Date

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

2/26/02 

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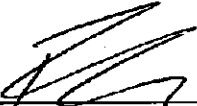
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Ronald T. Klimas, Esq. - Non-Public Arbitrator

James T. Ritt, Esq. - Non-Public Arbitrator

Concurring Arbitrators' Signatures

Milton H. Sitton, Esq.
Non-Public Arbitrator, Presiding Chair

Signature DateRonald T. Klimas, Esq.
Non-Public Arbitrator

2/11/02
Signature Date**Dissenting Arbitrator's Signature**

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Non-Public Arbitrator

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2/26/02 KJR

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ARBITRATION PANEL

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Ronald T. Klimas, Esq. - Non-Public Arbitrator
James T. Ritt, Esq. - Non-Public Arbitrator

Concurring Arbitrators' Signatures

Milton H. Sitton, Esq.
Non-Public Arbitrator, Presiding Chair

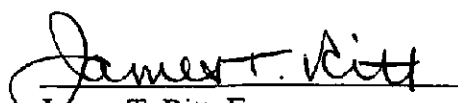
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Non-Public Arbitrator

Signature Date

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James T. Ritt, Esq.
Non-Public Arbitrator

2-11-02
Signature Date

Date of Service (For NASD-Dispute Resolution office use only): 2/26/02 mcr