

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Andrew Steinke, (Claimant) vs. Boston Mutual Sales Corp., (Respondent)

Case Number: 00-05644

Hearing Site: Boston, Massachusetts

REPRESENTATION OF PARTIES

Claimant, Andrew Steinke, hereinafter referred to as "Claimant": John N. Greenwood, Esq., a sole practitioner, Brookline, MA.

Respondent, Boston Mutual Sales Corp., hereinafter referred to as "Respondent": Henry T. Goldman, Esq., Kirkpatrick & Lockhart LLP, Boston, MA.

CASE INFORMATION

Statement of Claim filed on or about: December 20, 2000.

Claimant signed the Uniform Submission Agreement: December 20, 2000.

Statement of Answer and Motion to Dismiss filed by Respondent on or about: August 11, 2001.

Respondent signed the Uniform Submission Agreement: October 4, 2001.

CASE SUMMARY

Claimant asserted the following causes of action: libel on form U-5; defamation; and failure to pay commissions and compensation.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses: the statements made on Claimant's Form U-5 are neither libelous nor defamatory and, in any event, they were privileged; the Statute of Limitations has run on Claimant's claims for libel and defamation; the Statute of Limitations has run on Claimant's claims for commissions and compensation; Claimant's claims for commissions and compensation are claims against Boston Mutual Life Insurance Company, which is not a party to this action; Claimant's claims for commissions and compensation are pre-empted by the National Labor Relations Act; and Claimant's claims for commissions and compensation, even if valid, must be truncated as of December 15, 1994, when Respondent withdrew from the NASD.

RELIEF REQUESTED

Claimant requested:

- a. Compensatory damages in the amount of \$100,000.00;
- b. Costs and attorneys' fees; and
- c. That the Panel order that all libelous statements on Claimant's original Form U-5 or any amendment thereto be expunged from Claimant's CRD record.

Respondent requested that Claimant's claims be dismissed in their entirety.

OTHER ISSUES CONSIDERED AND DECIDED

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, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. The Panel recommends the expungement of the "yes" answer to item 15 on Claimant's Form U-5 Amendments dated December 28, 1994, May 23, 1995, and February 2, 1996, along with the Disclosure Reporting Pages attached thereto, based on the defamatory nature of the information, and the expungement of all reference to the above-captioned arbitration from Claimant, Andrew Steinke's registration records maintained by the NASD Central Registration Depository ("CRD").
2. All other claims and requests for relief are hereby dismissed.

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	= \$ 225.00
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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 events giving rise to the dispute. In this matter, Boston Mutual Sales Corp. is a party.

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

Forum Fees and Assessments

The Panel assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrators, including a pre-hearing conference with the arbitrators, 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: January 15, 2002	1 session

Seven (7) Hearing sessions x \$750.00	= \$5,250.00
Hearing Dates:	
April 3, 2002	2 sessions
April 4, 2002	1 session
April 9, 2002	2 sessions
April 12, 2002	2 sessions

Total Forum Fees	= \$6,000.00
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1. The Panel has assessed \$3,000.00 of the forum fees against Claimant.
2. The Panel has assessed \$3,000.00 of the forum fees against Respondent.

Fee Summary

1. Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$ 225.00
<u>Forum Fees</u>	= <u>\$3,000.00</u>
Total Fees	= \$3,225.00
<u>Less payments</u>	= <u>\$ 975.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$2,250.00

2. Respondent be and hereby is solely liable for:

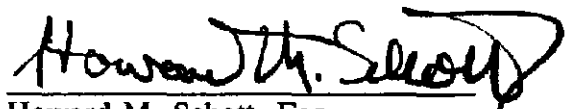
Member Fees	= \$3,100.00
<u>Forum Fees</u>	<u>= \$3,000.00</u>
Total Fees	= \$6,100.00
<u>Less payments</u>	<u>= \$3,100.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$3,000.00

All balances are due and payable to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

Howard M. Schott, Esq.	-	Public Arbitrator, Presiding Chair
William George Hayward, Jr., Esq.	-	Public Arbitrator
James E. Fox	-	Industry Arbitrator

Concurring Arbitrators' Signatures



Howard M. Schott, Esq.
Public Arbitrator, Presiding Chair

4/26/2002

Signature Date

William George Hayward, Jr., Esq.
Public Arbitrator

Signature Date

James E. Fox
Industry Arbitrator

Signature Date

May 3, 2002
Date of Service (For NASD office use only)

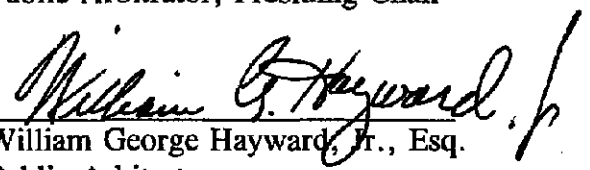
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James E. Fox	-	Industry Arbitrator

Concurring Arbitrators' Signatures

Howard M. Schott, Esq.
Public Arbitrator, Presiding Chair

Signature Date



William George Hayward, Jr., Esq.
Public Arbitrator

4/27/02

Signature Date

James E. Fox
Industry Arbitrator

Signature Date

May 3, 2002
Date of Service (For NASD office use only)

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Signature Date

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James E. Fox
Industry Arbitrator



Signature Date

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