

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

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In the Matter of the Arbitration Between:

Bruce Eisen and Lev Shvarts, Claimants v. GBS Financial Corp., Gerard P. Gloisten and Donald G. Gloisten, Respondents

Case Number: 01-01809

Hearing Site: Los Angeles, California

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**REPRESENTATION OF PARTIES**

For Claimants:

Michael Blumenfeld, Esq.  
Freeman, Freeman & Smiley, LLP  
Los Angeles, California

For Respondents:

F. James Feffer, Esq.  
Sherman Oaks, California

**CASE INFORMATION**

Statement of Claim filed: April 6, 2001

Claimants' Uniform Submission Agreement signed: April 5, 2001

Statement of Answer filed by Respondent GBS Financial Corp.: July 3, 2001

Respondent GBS Financial Corp.'s Uniform Submission Agreement signed: None filed

Joint Statement of Answer filed by Respondents Gerard P. Gloisten and Donald G. Gloisten:  
Dated June 27, 2001, received by NASD on December 26, 2001

Respondents Gerard P. Gloisten and Donald G. Gloisten's Uniform Submission Agreement  
signed: None filed

**CASE SUMMARY**

Claimants alleged breach of contract, intentional interference with prospective economic advantage, loss of business, lost profits and commissions, tortuous interference, unfair business practices, violation of NASD regulations, business interference, emotional distress, conversion, open book account (non-payment of commission overrides), unfair labor employment practices, raiding, violation of California Labor Law, fraud, and malice.

Respondent GBS Financial Corp. denied the allegations of wrongdoing set forth in the Claimants' Statement of Claim declaring it to be frivolous, intentionally malicious and oppressive, without merit, and fraudulent.

Respondents Gerard P. Gloisten and Donald G. Gloisten denied the allegations of wrongdoing set forth in the Claimants' Statement of Claim.

### **RELIEF REQUESTED**

Claimants requested \$400,000.00 in damages for lost profits and commissions and \$500,000.00 in actual damages, plus unspecified punitive damages, costs and attorneys' fees. Claimants also requested that Respondent GBS Financial Corp. be suspended and disciplined for violating NASD Rules.

Respondent GBS Financial Corp. requested dismissal of the Claimants' Statement of Claim in its entirety, a declaration that the claim is frivolous and without merit, and that Respondent be awarded all costs, attorneys' fees and other expenses plus punitive damages, and expungement of this claim from its record.

Respondents Gerard P. Gloisten and Donald G. Gloisten requested dismissal of the Claimants' Statement of Claim in its entirety, and an award for costs, attorneys' fees, and other relief deemed just and proper by the arbitrators. At the hearing Respondents Gerard P. Gloisten and Donald G. Gloisten requested an order to expunge all reference to the above captioned arbitration from their Central Registration Depository records.

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

Respondents GBS Financial Corp., Gerard P. and Donald G. Gloisten did not file with the NASD Dispute Resolution, Inc. properly executed submission agreements but are required to submit to arbitration pursuant to the Code and having answered the claim, appeared and testified at the hearing, are bound by the determination of the Panel on all issues submitted.

The parties 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, testimony, and evidence presented at the hearing, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Claimants' claims are denied in their entirety.
- 2) Claimants' claim for punitive damages is denied.
- 3) The Panel recommends the expungement of all reference to the above captioned arbitration

from the registration records of Respondents Gerard P. Gloisten and Donald G. Gloisten maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondents must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

- 4) The parties shall bear their respective costs, including attorneys' fees.
- 5) All other relief requested and not expressly granted is denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

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

Initial claim filing fee	= \$ 375.00
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#### **Member Fees**

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events which gave rise to the dispute, claim, or controversy. Accordingly, the member firm GBS Financial Corp. is a party and the following fees are assessed:

Member Surcharge	= \$ 2,000.00
Pre-Hearing Process Fee	= \$ 600.00
<u>Hearing Process Fee</u>	<u>= \$ 3,500.00</u>
<b>Total Member Fees</b>	<b>= \$ 6,100.00</b>

#### **Forum Fees and Assessments**

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair or Panel. The following fees are assessed:

(2) Pre-hearing conference sessions with the Panel @ \$1,200.00/session	= \$ 2,400.00
Pre-hearing conferences:	
September 19, 2001	1 session
October 2, 2001	1 session

(8) Hearing sessions @ \$1,200.00/session	= \$ 9,600.00
Hearings:	
February 5, 2002	2 sessions
February 6, 2002	2 sessions
February 7, 2002	2 sessions
March 14, 2002	2 sessions

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<b>Total Forum Fees</b>	<b>= \$ 12,000.00</b>
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The Panel assessed \$ 12,000.00 of the forum fees jointly and severally to Claimants Bruce Eisen and Lev Shvarts.

**Fee Summary**

1. Claimants Bruce Eisen and Lev Shvarts are charged jointly and severally with the following fees and costs:

Initial Filing Fee	= \$ 375.00
Forum Fees	= \$ 12,000.00
Total Fees	= \$ 12,375.00
Less payments	= \$( 2,450.00)
Balance Due NASD Dispute Resolution, Inc.	= \$ 9,925.00

2. Respondent GBS Financial Corp. is charged with the following fees and costs:

Member Fees	= \$ 6,100.00
Less payments	= \$( 6,100.00)
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

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

**ARBITRATION PANEL**

*William W. Huss*

*A. Douglas Ruygrok, Esq.*

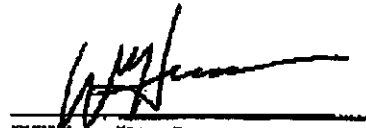
*Kathryn L. Krebs, Esq.*

*Public Arbitrator, Presiding Chair*

*Public Arbitrator*

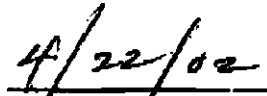
*Non-Public Arbitrator*

**Concurring Arbitrators' Signature(s)**



William W. Huss

Chair, Public Arbitrator



Signature Date

A. Douglas Ruygrok, Esq.  
Public Arbitrator

Signature Date

Kathryn L. Krebs, Esq.  
Non-Public Arbitrator

Signature Date



Date of Service

NASD Dispute Resolution, Inc.  
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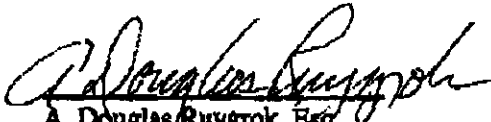
**ARBITRATION PANEL**

<i>William W. Huss</i>	-	<i>Public Arbitrator, Presiding Chair</i>
<i>A. Douglas Ruygrok, Esq.</i>	-	<i>Public Arbitrator</i>
<i>Kathryn L. Krebs, Esq.</i>	-	<i>Non-Public Arbitrator</i>

**Concurring Arbitrators' Signature(s)**

\_\_\_\_\_  
 William W. Huss  
 Chair, Public Arbitrator

\_\_\_\_\_  
 Signature Date

  
 A. Douglas Ruygrok, Esq.  
 Public Arbitrator

4-20-02  
 Signature Date

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 Kathryn L. Krebs, Esq.  
 Non-Public Arbitrator

\_\_\_\_\_  
 Signature Date

4.22.02  
 Date of Service

**ARBITRATION PANEL**

<i>William W. Hues</i>	-	<i>Public Arbitrator, Presiding Chair</i>
<i>A. Douglas Ruygrok, Esq.</i>	-	<i>Public Arbitrator</i>
<i>Kathryn L. Krebs, Esq.</i>	-	<i>Non-Public Arbitrator</i>

**Concurring Arbitrators' Signature(s)**

William W. Hues  
Chair, Public Arbitrator

Signature Date

A. Douglas Ruygrok, Esq.  
Public Arbitrator

Signature Date

  
Kathryn L. Krebs, Esq.  
Non-Public Arbitrator

4/19/02  
Signature Date

4.22.02  
Date of Service