
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
D. Paul Cohen

Case Number: 01-02218

Names of the Respondents
North American Institutional Brokers,
Marcus Konig and Kenneth Lazar

Hearing Site: Boca Raton, Florida

Nature of Dispute: Customer vs. Member and Associated Persons.

REPRESENTATION OF PARTIES

For D. Paul Cohen, hereinafter referred to as "Claimant": Martin H. Kaplan, Esq., Gusrae, Kaplan & Bruno, PLLC, New York, New York.

For Respondent North American Institutional Brokers ("NAIB") and Marcus Konig ("Konig"): Robin C. Campbell, Esq., Adorno & Yoss, PA, Ft. Lauderdale, Florida.

Respondent Kenneth Lazar appeared pro se.

CASE INFORMATION

Statement of Claim filed on or about: May 1, 2001.

Claimant signed the Uniform Submission Agreement: April 26, 2001.

Statement of Answer filed by Respondents NAIB and Konig on or about: July 9, 2001.

Respondent Lazar did not file a Statement of Answer.

Respondents did not file executed Uniform Submission Agreements.

CASE SUMMARY

Claimant alleged that Respondents violated an agreement with Claimant by withholding commissions due Claimant, wrongfully terminated Claimant and intentionally filed a U-5 with false information.

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

RELIEF REQUESTED

Claimant requested unspecified compensatory damages; punitive and exemplary damages in an amount equal to three times the amount of damages proven at hearing; attorneys' fees and reimbursement of all related expenses attendant to this proceeding.

Respondents NAIB and Konig requested dismissal of the Statement of Claim in its entirety; costs; attorneys' fees; and such other and further relief the Panel deemed just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents NAIB and Konig did not file with NASD Dispute Resolution properly executed submissions to arbitration but are required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (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.

On or about August 15, 2001, Claimant filed with NASD Dispute Resolution a notice of withdrawal, without prejudice, of all claims asserted against Respondent Kenneth Lazar, due to his death.

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 and 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:

The Panel finds Respondent NAIB liable on the claim of implied contract. As such, Respondent NAIB shall pay Claimant compensatory damages of \$218,490.80 and \$9,501.31. In addition, Respondent NAIB shall pay Claimant \$15,840.57 in interest on the \$218,490.80 sum from January 1, 2001 through October 4, 2003 and Florida statutory interest from October 4, 2003 until the date of payment of the Award. Respondent NAIB shall also pay Claimant Florida statutory interest on the \$9,501.31 sum from January 1, 2001 until the date of payment of the Award.

Claimant's claims against Respondent Konig are denied in their entirety.

Although the Claimant and Respondents NAIB and Konig requested attorneys' fees in their wherefore clause, the causes of action alleged in their respective pleadings did not specify any grounds on which they would be entitled to attorneys' fees. Furthermore, the Panel has no authority under Florida law to determine entitlement to attorneys' fees. Therefore, the Panel does not make any determination as to an award of attorneys' fees to any party, but has stated in this Award the causes of action on which the Claimant prevails.

Any and all claims for relief not specifically addressed herein, including Claimant's request for punitive and exemplary damages, are denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee = \$ 250.00

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 persons at the time of the events giving rise to the dispute. Accordingly, NAIB is a party.

Member surcharge	= \$1,200.00
Pre-hearing process fee	= \$ 600.00
<u>Hearing process fee</u>	<u>= \$2,000.00</u>
Total Member Fees	= \$3,800.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

No adjournment fees were incurred in this matter.

Injunctive Relief Fees

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the panel.

No injunctive relief fees were incurred in this matter.

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A 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:

Two (2) Pre-hearing sessions with a single arbitrator @ \$450.00 = \$ 900.00

Pre-hearing conferences:	December 14, 2001	1 session
	March 19, 2002	1 session

Eight (8) Pre-hearing sessions with the Panel @ \$1,000.00 = \$ 8,000.00

Pre-hearing conferences:	October 29, 2001	1 session
	March 26, 2002	1 session
	June 25, 2002	1 session
	July 24, 2002	1 session

October 7, 2002	1 session
January 7, 2003	1 session
August 21, 2003	1 session
September 15, 2003	1 session

Eleven (11) Hearing sessions @ \$1,000.00 = \$11,000.00

Hearing Dates:	June 12, 2003	1 session
	August 13, 2003	2 sessions
	August 14, 2003	2 sessions
	August 15, 2003	2 sessions
	October 3, 2003	2 sessions
	October 4, 2003	2 sessions

Total Forum Fees = \$19,900.00

The Panel assessed forum fees of \$6,633.33 to Claimant.

The Panel assessed forum fees of \$13,266.67 to Respondent NAIB.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

On or about September 15, 2003, the Panel entered an Order which directed the parties to pay the overnight room charges for all three Panel members and any related meals consumed during the evidentiary hearing in this matter. Accordingly, the Arbitrator costs associated with these proceedings are assessed as follows:

The Panel assessed administrative costs of \$246.48 to Claimant.

The Panel assessed administrative costs of \$246.48 to Respondent NAIB.

Fee Summary

Claimant is solely liable for:

Initial Filing Fee	= \$ 250.00
Administrative Costs	= \$ 246.48
Forum Fees	= \$ 6,633.33
Total Fees	= \$ 7,129.81
<u>Less payments</u>	<u>= \$ 1,250.00</u>
Balance Due NASD Dispute Resolution	= \$ 5,879.81

Respondent NAIB is solely liable for:

Member Fees	= \$ 3,800.00
Administrative Costs	= \$ 246.48
Forum Fees	= \$13,266.67
Total Fees	= \$17,313.15
Less payments	= \$ 3,850.00
Balance Due NASD Dispute Resolution	= \$13,463.15

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

ARBITRATION PANEL

<i>Frank Nussbaum, Esq.</i>	- <i>Public Arbitrator, Presiding Chairperson</i>
<i>Barth Satuloff, CPA</i>	- <i>Public Arbitrator</i>
<i>Trudi J. Infantini</i>	- <i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

/s/
Frank Nussbaum, Esq.
Public Arbitrator, Presiding Chairperson

10/21/03
Signature Date

/s/
Barth Satuloff, CPA
Public Arbitrator

10/20/03
Signature Date

/s/
Trudi J. Infantini
Non-Public Arbitrator

10/21/03
Signature Date

10/28/03
Date of Service (For NASD Dispute Resolution office use only)

Respondent NAIB is solely liable for:

Member Fees	= \$ 3,800.00
Administrative Costs	= \$ 246.48
Forum Fees	= \$13,256.67
Total Fees	= \$17,313.15
Less payments	= \$ 3,850.00
Balance Due NASD Dispute Resolution	= \$13,463.15

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

ARBITRATION PANEL

<i>Frank Nussbaum, Esq.</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Barth Satuloff, CPA</i>	-	<i>Public Arbitrator</i>
<i>Trudi J. Infantini</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures



Frank Nussbaum, Esq.
Public Arbitrator, Presiding Chairperson

Oct. 21, 2003

Signature Date

Barth Satuloff, CPA
Public Arbitrator

Signature Date

Trudi J. Infantini
Non-Public Arbitrator

Signature Date

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

Respondent NAJB is solely liable for:

Member Fees	= \$ 3,800.00
Administrative Costs	= \$ 246.48
Forum Fees	= \$13,266.67
Total Fees	= \$17,313.15
Less payments	= \$ 3,850.00
Balance Due NASD Dispute Resolution	= \$13,463.15

RECEIVED
OCT 23 2003
FL ARBITRATION

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

ARBITRATION PANEL

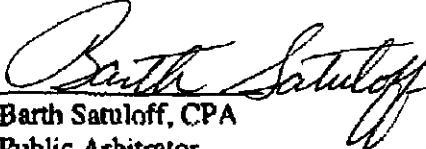
Frank Nussbaum, Esq.
Barth Satuloff, CPA
Trudi J. Infantini

- Public Arbitrator, Presiding Chairperson
- Public Arbitrator
- Non-Public Arbitrator

Concurring Arbitrators' Signatures

Frank Nussbaum, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date


Barth Satuloff, CPA
Public Arbitrator

OCT. 20, 2003
Signature Date

Trudi J. Infantini
Non-Public Arbitrator

Signature Date

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

Respondent NAIB is solely liable for:

Member Fees	= \$ 3,800.00
Administrative Costs	= \$ 246.48
Forum Fees	= \$13,266.67
Total Fees	= \$17,313.15
Less payments	= \$ 3,850.00
Balance Due NASD Dispute Resolution	= \$13,463.15

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

ARBITRATION PANEL

Frank Nussbaum, Esq.
Barth Satuloff, CPA
Trudi J. Infantini

- Public Arbitrator, Presiding Chairperson
- Public Arbitrator
- Non-Public Arbitrator


Concurring Arbitrators' Signatures

Frank Nussbaum, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Barth Satuloff, CPA
Public Arbitrator

Signature Date


Trudi J. Infantini
Non-Public Arbitrator

10-2-03
Signature Date

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