

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Nace Tyson Nickel, Claimant v. Quick & Reilly, Inc., Respondent

Case Number: 01-02627

Hearing Site: San Francisco, California

REPRESENTATION OF PARTIES

For Claimant:

Nace Tyson Nickel
Windsor, California

For Respondent:

Peter Byer
Quick & Reilly, Inc.
New York, New York

CASE INFORMATION

Statement of Claim filed: May 17, 2001

Amended Statement of Claim filed: May 11, 2002

Amended Statement of Claim filed: June 27, 2002

Claimant's Uniform Submission Agreement signed: July 10, 2001

Statement of Answer filed by Respondent Quick & Reilly, Inc. ("Quick & Reilly"): August 30, 2001

Respondent's Answer to Amended Claim of May 11, 2002 filed: July 10, 2003

Respondent Quick & Reilly's Uniform Submission Agreement signed: August 30, 2001

CASE SUMMARY

Claimant alleged that Respondent failed to pay Claimant a fair severance package with respect to Claimant's employment with Quick & Reilly. Claimant also alleged wrongful termination, age discrimination and breach of contract in connection with his employment with Quick & Reilly.

Respondent denied Claimant's allegations of wrongdoing and denied any liability to Claimant.

RELIEF REQUESTED

Referencing the Statement of Claim, Amended Claim of May 11, 2002 and Amended Claim of June 27, 2002, Claimant requested compensatory damages in the amount of \$69,217.00 and requested punitive damages in the amount of \$930,783.00.

Respondent requested dismissal of Claimant's claims and requested that costs be awarded in Respondent's favor.

OTHER ISSUES CONSIDERED AND DECIDED

On or about July 29, 2002, the Panel reviewed and considered the positions of the parties relative to the filing of Claimant's proposed amended claims of May 11, 2002 and June 27, 2002. The Panel granted Claimant's request to amend his Claim to add claims for wrongful termination, breach of contract and punitive damages. The Panel denied Claimant's request to add a claim for age discrimination.

During the hearing, the Panel reviewed and considered the positions of the parties relative to Respondent's motion to dismiss made at the conclusion of Claimant's case. The Panel denied the motion.

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) All claims by Claimant, including the claim for punitive damages, are denied.
- 2) Each party shall bear its own costs, including attorney's fees.
- 3) All other relief not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD-DR 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 that gave rise to the dispute, claim, or controversy. Accordingly, the member firm Quick & Reilly 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>
Total Member Fees	= \$6,100.00

Adjournment Fees

The following adjournment fees are assessed:

The Panel waived the \$1,200.00 adjournment fee in connection with the parties' request to adjourn the May 10, 2002 hearing date.

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/Panel. The following fees are assessed:

(2) Pre-hearing conference sessions with a single arbitrator @ \$450/session= \$900.00

Pre-hearing conferences:	April 24, 2002	1 session
	July 23, 2003	1 session

(4) Pre-hearing conference sessions with the Panel @ \$1,200.00/session = \$4,800.00

Pre-hearing conferences:	January 10, 2002	1 session
	July 29, 2002	1 session
	August 19, 2002	1 session
	February 10, 2003	1 session

(2) Hearing sessions @ \$1,200.00/session = \$2,400.00

Hearing:	July 30, 2003	2 sessions
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Total Forum Fees	= \$8,100.00
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The Panel assessed \$4,050.00 of the forum fees to Claimant.

The Panel assessed \$4,050.00 of the forum fees to Respondent.

Fee Summary

1. Claimant is charged with the following fees and costs:

Initial Filing Fee	= \$ 375.00
Forum Fees	= \$ 4,050.00
Total Fees	= \$ 4,425.00
Less Payments	= \$ (975.00)
Balance Due NASD-DR	= \$ 3,450.00

2. Respondent Quick & Reilly is charged with the following fees and costs:

Member Fees	= \$ 6,100.00
Forum Fees	= \$ 4,050.00
Total Fees	= \$10,150.00
Less Payments	= \$(6,100.00)
Balance Due NASD-DR	= \$ 4,050.00

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

ARBITRATION PANEL

John J. Fitzpatrick, Jr., Esq.	-	Public Arbitrator, Presiding Chair
Nancy Hutt, Esq.	-	Public Arbitrator
Gregory M. Scanlon, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

John J. Fitzpatrick, Jr., Esq.
Chair, Public Arbitrator

Signature Date

Nancy Hutt, Esq.
Public Arbitrator

Signature Date

Gregory M. Scanlon, Esq.
Non-Public Arbitrator

Signature Date

Date of Service

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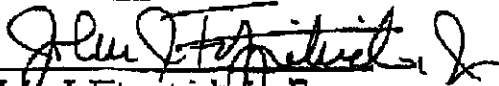
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Gregory M. Scanlon, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures


John J. Fitzpatrick, Jr., Esq.
Chair, Public Arbitrator

8/5/03
Signature Date

Nancy Hutt, Esq.
Public Arbitrator

Signature Date

Gregory M. Scanlon, Esq.
Non-Public Arbitrator

Signature Date

8/8/03
Date of Service

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Gregory M. Scanlon, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

John J. Fitzpatrick, Jr., Esq.
Chair, Public Arbitrator

Nancy Hutt
Nancy Hutt, Esq.
Public Arbitrator

Signature Date

Aug 7, 2003
Signature Date

Gregory M. Scanlon, Esq.
Non-Public Arbitrator

Signature Date

8/8/03
Date of Service

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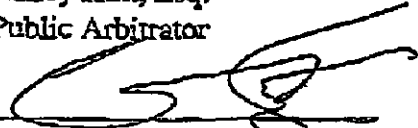
Concurring Arbitrators' Signatures

John J. Fitzpatrick, Jr., Esq.
Chair, Public Arbitrator

Signature Date

Nancy Hunt, Esq.
Public Arbitrator

Signature Date


Gregory M. Scanlon, Esq.
Non-Public Arbitrator

Signature Date

8/6/03
Signature Date
8/8/03
Date of Service