

AWARD
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between

Name of Claimant

Kirkpatrick, Pettis, Smith Polian, Inc.

and

01-02919
Denver, Colorado

Name of Respondent

Robert Nevarez

REPRESENTATION OF PARTIES

Kirkpatrick, Pettis, Smith Polian, Inc. ("Claimant") was represented by James M. Bausch, Esq. and Tracy A. Oldemeyer, Esq. of Cline, Williams, Wright, Johnson & Oldfather, L.L.P. located in Lincoln, Nebraska.

Robert Nevarez ("Respondent") did not appear.

CASE INFORMATION

The Statement of Claim was filed on or about May 31, 2001. Submission Agreement of Claimant Kirkpatrick, Pettis, Smith Polian, Inc. was signed on May 23, 2001.

The NASD has no record of Statement of Answer or Submission Agreement was filed by Respondent Robert Nevarez.

CASE SUMMARY

Claimant Kirkpatrick, Pettis, Smith Polian, Inc. alleged that its former employee and broker Respondent, Robert Nevarez, failed to pay the amount due on a promissory note and breached his employment contract.

RELIEF REQUESTED

Claimant requested an award in the amount of \$60,304.81, interest, attorneys' fees and other costs.

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The NASD has no record of requests for relief from Robert Nevarez.

OTHER ISSUES CONSIDERED & DECIDED

Upon review of the file and the representations made by/on behalf of the Claimant, the undersigned arbitrators have determined that Respondent Robert Nevarez has been properly served with the Statement of Claim pursuant to Rule 10302 and Rule 10314 of the NASD Code of Arbitration Procedure (the "Code"). The undersigned arbitrators have also determined that Respondent Robert Nevarez had received due notice of the hearing as required under Rule 10315 of the Code and that arbitration of the matter would proceed pursuant to Rule 10318 of the Code.

Respondent Robert Nevarez did not file with the NASD Dispute Resolution, Inc. a properly executed submission to arbitration but is required to submit to arbitration pursuant to Rule 10301 of the NASD Code of Arbitration Procedure (the "Code") and is bound by the determination of the arbitration panel on all issues submitted.

The parties present at the hearing have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the award while the originals remain on file with the NASD Dispute Resolution, Inc. (the "NASD").

AWARD

1. Robert Nevarez is liable for and shall pay Claimant Kirkpatrick, Pettis, Smith Polian, Inc. the sum of fifty five thousand eight hundred and nineteen dollars and thirty five cents (\$55,819.35) in compensatory damages and the sum of eight thousand seven hundred fifty eight dollars and sixty three cents (\$8,758.63) in interest.
2. Robert Nevarez is liable for and shall pay Claimant Kirkpatrick, Pettis, Smith Polian, Inc. the sum of nine thousand five hundred and fifteen dollars and seventy-three cents (\$9,515.73) in attorneys' fees. In making the award of attorneys' fees, the panel heard and considered all pleadings, documents, motions, case and statutory law submitted, oral arguments of counsel and the contract at issue, and determined that there exists adequate support for this award of attorneys' fees.
3. That to the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto are denied with prejudice.
4. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding.

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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 = \$1000.00

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, the member firm is Kirkpatrick, Pettis, Smith Polian, Inc.

Member surcharge = \$1000.00
Pre-hearing process fee = \$600.00
Hearing process fee = \$1500.00

Forum Fees and Assessments

The Arbitration 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: October 29, 2001 1 session

One (1) Hearing sessions x \$750.00 = \$750.00
Hearing Date: January 24, 2002 1 session

Total Forum Fees = \$1500.00

The Arbitration Panel has assessed \$1500 of the forum fees to Respondent Robert Nevarez.

Fee Summary

Claimant, Kirkpatrick, Pettis, Smith Polian, Inc. [claimant], shall be and hereby is liable for:

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Initial Filing Fee	= \$1000.00
Member Fees	= \$3100.00
Forum Fees	= \$ 00.00
Total Fees	= \$4100.00
Less payments	= \$4850.00
Refund Due Claimant	= (\$750.00)

Respondent, Robert Nevarez, shall be and hereby is liable for:

Forum Fees	= \$1500.00
Total Fees	= \$1500.00
Less payments	= \$ 00.00
Balance Due NASD Dispute Resolution, Inc.	= \$1500.00

All balances are due to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

Gene R. Thornton - Non-Public Arbitrator, Presiding Chair
S. James Horning - Non-Public Arbitrator
Bruce Brown - Non-Public Arbitrator

Concurring Arbitrators:

Gene R. Thornton
Non-Public Arbitrator, Presiding Chair

Signature Date

S. James Horning
Non-Public Arbitrator

Signature Date

Bruce Brown
Non-Public Arbitrator

Signature Date

NASD Dispute Resolution, Inc.
Arbitration No. 01-02919
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Non-Public Arbitrator, Presiding Chair

3/12/02
Signature Date


S. James Horning
Non-Public Arbitrator

Signature Date


Bruce Brown
Non-Public Arbitrator

Signature Date

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Concurring Arbitrators:

Gene R. Thornton
Non-Public Arbitrator, Presiding Chair

Signature Date

S. James Horning
S. James Horning
Non-Public Arbitrator

8/8/02
Signature Date

Bruce Brown
Non-Public Arbitrator

Signature Date

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Concurring Arbitrators:

Gene R. Thornton
Non-Public Arbitrator, Presiding Chair

Signature Date

S. James Horning
Non-Public Arbitrator

Signature Date

Bruce Brown

Bruce Brown
Non-Public Arbitrator

3-11-02

Signature Date