

**Award  
NASD Dispute Resolution**

---

In the Matter of the Arbitration Between:

Michael Conti (Claimant) v. Lehman Brothers, Inc. (Respondent)

Case Number: 01-03630

Hearing Site: Boston, Massachusetts

---

Nature of the Dispute: Associated Person vs. Member.

**REPRESENTATION OF PARTIES**

Claimant Michael Conti, hereinafter referred to as "Claimant" appeared *pro se*. Previously represented by Heather V. Baer, Esq., Sally & Fitch, Boston, MA.

Respondent Lehman Brothers, hereinafter referred to as "Respondent": Christopher P. Litterio, Esq., Ruberto, Israel, & Weiner, P.C., Boston, MA.

**CASE INFORMATION**

Statement of Claim filed on or about: July 9, 2001.

Response to Counterclaim filed on or about: September 21, 2001.

Claimant signed the Uniform Submission Agreement: July 9, 2001.

Statement of Answer and Counterclaim filed by Respondent on or about: September 10, 2001.

Respondent signed the Uniform Submission Agreement: October 10, 2001.

**CASE SUMMARY**

Claimant asserted the following causes of action: slander/defamation of character to Respondent personnel; slander/defamation of character to Oppenheimer (by Lehman); slander per se to Respondent personnel; slander per se to Oppenheimer (by Lehman); breach of contract; breach of implied covenant of good faith and fair dealing; and tortious interference with business relations.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim.

In its Counterclaim, Respondent asserted the following causes of action: failure to pay balance due and owing on a forgivable loan.

In his Response to the Counterclaim, Claimant denied the allegations made in the Counterclaim.

### **RELIEF REQUESTED**

Claimant requested compensatory damages in the amount of \$500,000.00, plus punitive damages in the amount of \$500,000.00, a written apology, an unspecified sum that fairly and reasonably compensates him for the damages he has suffered, including costs and reasonable attorneys' fees; and such other and further relief as it deems just and proper under the circumstances.

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

In its Counterclaim, Respondent requested \$150,000.00 plus interest.

Claimant requested that Respondent's counterclaims 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. Claimant's claims are denied in their entirety.
2. Claimant is liable for and shall pay to Respondent compensatory damages in the amount of \$120,000.00 plus interest at the Massachusetts legal rate from the date of service of this Award until the date the Award is paid in full.
3. Any and all relief not specifically addressed herein, including punitive damages, is 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	= \$ 375.00
Counter claim/Cross claim filing fee	= \$1,000.00

**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 event giving rise to the dispute. Accordingly, Lehman Brothers, Inc., is a party.

Member surcharge	= \$ 2,000.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$ 3,500.00

**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:

Ten (10) Hearing sessions @ \$1,200.00	= \$12,000.00
Hearing Dates:	
May 15, 2006	1 session
May 18, 2006	2 sessions
May 19, 2006	2 sessions
September 25, 2006	2 sessions
September 26, 2006	2 sessions
September 27, 2006	1 session
Total Forum Fees	= \$12,000.00

1. The Panel has assessed \$6,000.00 of the forum fees against Claimant.
2. The Panel has assessed \$6,000.00 of the forum fees against Respondent.

**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.

1. Claimant requested copies of hearing tapes = \$ 120.00

**Fee Summary**

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 375.00
Forum Fees	= \$ 6,000.00
Administrative Costs	= \$ 120.00
Total Fees	= \$ 6,495.00
Less payments	= \$ 1,575.00

Balance Due NASD Dispute Resolution = \$ 4,920.00

2. Respondent is solely liable for:


Filing Fee	= \$ 1,000.00
Member Fees	= \$ 6,100.00
Forum Fees	= \$ 6,000.00
Total Fees	= \$13,100.00
Less payments	= \$ 4,725.00
Balance Due NASD Dispute Resolution	= \$ 8,375.00

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

**ARBITRATION PANEL**

Matthew J. McConville, Jr.	-	Public Arbitrator, Presiding Chairperson
Robert Titus	-	Public Arbitrator
Barbara-Ann Boehler	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

  
\_\_\_\_\_  
Matthew J. McConville, Jr.  
Public Arbitrator, Presiding Chairperson

10/5/2006  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Robert Titus  
Public Arbitrator

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

\_\_\_\_\_  
Barbara-Ann Boehler  
Non-Public Arbitrator

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

October 6, 2006  
\_\_\_\_\_  
Date of Service (For NASD Dispute Resolution use only)

**ARBITRATION PANEL**

Matthew J. McConville, Jr. -	Public Arbitrator, Presiding Chairperson
Robert Titus -	Public Arbitrator
Barbara-Ann Boehler -	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

\_\_\_\_\_  
Matthew J. McConville, Jr  
Public Arbitrator, Presiding Chairperson

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

Robert B. Titus  
Robert Titus  
Public Arbitrator

10/6/06  
Signature Date

\_\_\_\_\_  
Barbara-Ann Boehler  
Non-Public Arbitrator

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

October 6, 2006  
Date of Service (For NASD Dispute Resolution use only)

**ARBITRATION PANEL**

Matthew J. McConille, Jr. - Public Arbitrator, Presiding Chairperson  
Robert Titus - Public Arbitrator  
Barbara-Ann Boehler - Non-Public Arbitrator

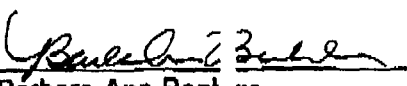
**Concurring Arbitrators' Signatures**

\_\_\_\_\_  
Matthew J. McConille, Jr.  
Public Arbitrator, Presiding Chairperson

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

\_\_\_\_\_  
Robert Titus  
Public Arbitrator

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

  
\_\_\_\_\_  
Barbara-Ann Boehler  
Non-Public Arbitrator

10/5/06  
\_\_\_\_\_  
Signature Date

October 6, 2006  
\_\_\_\_\_  
Date of Service (For NASD Dispute Resolution use only)