

**Arbitration Decision**

**PACIFIC EXCHANGE, INC.  
115 Sansome Street  
San Francisco, CA 94104**

**In The Matter Of The Arbitration Between:**

**RICHARD CABANES**

**Claimant**

**v.**

**COLE ROESLER TRADING GROUP, L.P.,  
J. MICHAEL COLE, PAUL J. ROESLER,  
VANCE K. HILLSTROM AND SHAUN D.  
BISHOP**

**Respondents**

**PCX CASE #: 01-5011**

**DECISION**

The undersigned Arbitrators, having read and considered the Claim submitted by Claimant on July 10, 2001, and the Answer of Respondents, and having considered evidence presented at the hearings on September 7 – 9, 2004 and September 22, 2004, as well as the post-hearing briefs submitted by the parties, hereby render the following Decision pursuant to Rule 12 of the Rules of the Board of Governors of the Pacific Exchange:

**REPRESENTATION OF PARTIES**

**Of Claimant: Michael A. Mazzocone**

**Of Respondents: Brian A. Sher**

**SUMMARY OF FACTS**

Claimant argues that he was promised an employment bonus, part of which he did not receive. Respondents also argue that Claimant is liable to them for his post-employment activities.

**ISSUES PRESENTED**

- 1. Was Claimant's bonus paid in full?**
- 2. Did Claimant's post-employment activity constitute unfair competition?**

**RELIEF REQUESTED**

**Each side claims monetary relief.**

**FINDINGS AND DECISION**

**A. Findings of fact:**

**After considering the argument and evidence of both the Claimant and Respondents in this matter, the undersigned Arbitrators make the following findings:**

- 1. Claimant was not paid the entire bonus to which he was entitled**
- 2. Claimant's post-employment activities did not give rise to liability on his part**

**B. Decision:**

**After considering the argument and evidence of both the Claimant and Respondent in this matter, the undersigned Arbitrators make the final determination and decision of the issues presented, as set forth below:**

**C. Award:**

- 1. Claimant is awarded \$75,000 in monetary damages against Respondents jointly and severally, plus interest at a rate of 10% per annum from the date of this decision.**
- 2. Respondents are not awarded any damages by reason of their counterclaim.**
- 3. Each party is to bear his own costs.**
- 4. Each party is to bear his own attorney's fees.**

**D. Other determinations (please check "yes" or "no" for each item)**

- |  |   |  |
|--|---|--|
| <b>1. Respondent shall reimburse Claimant's non-refundable filing fee:</b>   | <input type="checkbox"/> YES            | <input checked="" type="checkbox"/> NO |
| <b>2. Respondent shall reimburse Claimant's hearing session deposit:</b>   | <input type="checkbox"/> YES            | <input checked="" type="checkbox"/> NO |
| <b>3. Parties shall bear their own costs of arbitration:</b>   | <input checked="" type="checkbox"/> YES | <input type="checkbox"/> NO            |
| <b>4. Should this matter be referred to any regulatory organization (SRO or SEC) for disciplinary investigation of rule violations or violation federal securities laws?</b> | <input type="checkbox"/> YES            | <input checked="" type="checkbox"/> NO |

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E. Forum Fees:

One half to Claimant and one half to Respondents (jointly and severally)

Dated: 11/12/04

Michael M. Golden  
Michael Golden, Chair

Dated: \_\_\_\_\_

\_\_\_\_\_  
Amy Seitzer, Public Arbitrator

Dated: \_\_\_\_\_

\_\_\_\_\_  
Karl Noelke, Industry Arbitrator

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E. Forum Fees:

One half to Claimant and one half to Respondents (jointly and severally)

Dated: \_\_\_\_\_

\_\_\_\_\_  
Michael Golden, Chair

Dated: 11/11/04 \_\_\_\_\_

  
\_\_\_\_\_  
Amy Seltzer, Public Arbitrator

Dated: \_\_\_\_\_

\_\_\_\_\_  
Karl Noelke, Industry Arbitrator

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E. Forum Fees:

One half to Claimant and one half to Respondents (jointly and severally)

Dated: \_\_\_\_\_

\_\_\_\_\_  
Michael Golden, Chair

Dated: \_\_\_\_\_

\_\_\_\_\_  
Amy Seltzer, Public Arbitrator

Dated: Nov. 12, 2004

Carl Noelke  
Carl Noelke, Industry Arbitrator