

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:
Jacques Bolivar, Claimant v. Robert Van Securities, Inc., Respondent

Case Number: 02-04627

Hearing Site: San Francisco, California

REPRESENTATION OF PARTIES

For Claimant:

Jacques Bolivar
Oakland, California

For Respondent:

Cherie G. Porter
Jones Law Group
Walnut Creek, California

CASE INFORMATION

Statement of Claim filed: September 5, 2002

Claimant's Response to Counterclaim filed: November 19, 2002

Claimant's Uniform Submission Agreement signed: August 30, 2002

Statement of Answer and Counterclaim filed by Respondent Robert Van Securities, Inc.
("RVS"): November 4, 2002

Arbitration Brief filed by Respondent: April 11, 2003

Respondent RVS's Uniform Submission Agreement signed: October 24, 2002

CASE SUMMARY

Claimant alleged that Respondent has failed to pay Claimant commissions earned in connection with Claimant's affiliation with RVS.

Respondent alleged that it does not owe Claimant any amount for unpaid commissions.

In its Counterclaim, Respondent alleged that Mr. Bolivar owes RVS administrative costs and expenses.

Claimant denied the allegations in Respondent's Counterclaim and denied any liability to Respondent.

RELIEF REQUESTED

Claimant requested commissions in the amount of \$3,062.33 and costs in the amount of \$3,018.83.

Respondent requested an award as follows:

1. Determining that the accounting for commissions as provided by RVS in its Answer and Counterclaim is the correct accounting for commissions due in the amount of \$1,269.19;
2. Determining that Mr. Bolivar failed to meet his minimum production requirements and that RVS is therefore entitled to receive payment from Claimant for ordinary and necessary overhead and administrative expenses and that the following items are properly charged to Mr. Bolivar for such expenses: (a) the pro-rated errors and omissions insurance in the amount of \$712.02; (b) costs of NASD registration in the amount of \$142.00; and (c) one-half of the cost of the Centerpiece expenses in the amount of \$2,177.55;
3. For an order that Mr. Bolivar pay RVS the amount of \$1,762.38 representing total commissions less items charged for overhead and administrative expenses;
4. Forum fees in the amount of \$350.00; and
5. Attorney's fees and such other reasonable costs as the arbitrator may deem appropriate.

OTHER ISSUES CONSIDERED AND DECIDED

On December 12, 2002, Claimant signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

On October 18, 2002, Respondent Robert Van Securities, Inc.'s counsel signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

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) Respondent RVS is liable for and shall pay to Claimant the sum of \$2,280.63 in satisfaction of Claimant's claims.
- 2) All claims with respect to Respondent's Counterclaim are dismissed.
- 3) Each party shall bear its own costs, including attorney's fees.
- 4) 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	= \$ 50.00
Counterclaim filing fee	= \$300.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, RVS, is a party and the following fees are assessed:

<u>Member Surcharge</u>	= \$200.00
<u>Total Member Fees</u>	= \$200.00

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:

(1) Pre-hearing conference session with a single arbitrator @ \$125.00/session	= \$125.00
Pre-hearing conference: March 19, 2003	1 session

(2) Hearing sessions @ \$125.00/session	= \$250.00
Hearing: April 24, 2003	2 sessions

Total Forum Fees	= \$375.00
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The Panel assessed \$187.50 in forum fees to Claimant.

The Panel assessed \$187.50 in forum fees to Respondent.

Administrative Costs

Administrative costs are expenses incurred because a party requested additional services beyond the normal administrative services. These additional services include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, security, and other requests.

The parties did not incur administrative costs.

Fee Summary

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

Initial Filing Fee	= \$ 50.00
Forum Fees	= \$ 187.50
<u>Administrative Costs</u>	= \$ 0.00
Total Fees	= \$ 237.50
<u>Less Payments</u>	= \$ (175.00)
Balance Due NASD-DR	= \$ 62.50

2. Respondent, RVS, is charged with the following fees and costs:

Counterclaim Filing Fee	= \$ 300.00
Member Fees	= \$ 200.00
Forum Fees	= \$ 187.50
<u>Administrative Costs</u>	= \$ 0.00
Total Fees	= \$ 687.50
<u>Less Payments</u>	= \$ (550.00)
Balance Due NASD-DR	= \$ 137.50

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

Nicholas J. Caputo

Non-Public Arbitrator, Presiding Chair

Presiding Arbitrator's Signature

Nicholas J. Caputo
Chair, Non-Public Arbitrator

Signature Date

05/05/03
Date of Service

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Nicholas J. Caputo

Non-Public Arbitrator, Presiding Chair

Presiding Arbitrator's Signature



Nicholas J. Caputo
Chair, Non-Public Arbitrator

5/3/03

Signature Date

05/05/03

Date of Service