
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant

Raymond James & Associates, Inc.

Case Number: 02-04913

Names of the Respondents

Todd E. Simpfenderfer
Quick & Reilly, Inc.

Hearing Site: Tampa, Florida

REPRESENTATION OF PARTIES

For Raymond James & Associates, Inc., hereinafter referred to as "Claimant": Francis M. Curran, Esq., P.A., Clearwater, Florida.

For Respondent Todd E. Simpfenderfer ("Simpfenderfer"): Andre R. Peron, Esq., Ozark, Perron & Nelson, P.A., Bradenton, Florida.

For Respondent Quick & Reilly, Inc. (Q&R): Peter Byer, Vice President and Senior Counsel, Quick & Reilly, Inc., New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: August 20, 2002.

Claimant signed the Uniform Submission Agreement: July 30, 2002.

Statement of Answer and Counterclaim filed by Respondent Simpfenderfer on or about: November 25, 2002.

Respondent Simpfenderfer signed the Uniform Submission Agreement: November 22, 2002.

Respondent Q&R did not file an Answer to the Statement of Claim or an executed Uniform Submission Agreement.

Response to Counterclaim filed by Claimant on or about: December 10, 2002.

CASE SUMMARY

Claimant asserted the cause of action of breach of employment agreement. The cause of action relates to Respondent Simpfenderfer's resignation and subsequent employment at Respondent Q&R.

Unless specifically admitted in his Answer, Respondent Simpfenderfer denied the allegations made in the Statement of Claim and asserted various affirmative defenses. In addition, Respondent Simpfenderfer filed a counterclaim alleging negligent misrepresentation, fraud in the inducement and breach of oral agreement.

Unless specifically admitted in its Response to Counterclaim, Claimant denied the allegations made in the Counterclaim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$40,000.00 against Respondent Simpfinderfer and \$10,000.00 against Respondent Q&R, pre and post award interest, attorney's fees and costs. In addition, Claimant requested that the Counterclaim be dismissed in its entirety and for such other relief as the Panel deemed just and proper.

Respondent Simpfinderfer requested that the Statement of Claim be dismissed in its entirety, costs and attorney's fees. In his Counterclaim, Respondent Simpfinderfer requested compensatory damages in the amount of \$100,000.00, punitive damages and costs.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Q&R did not file with NASD a properly executed submission to arbitration but is required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code") and is bound by the determination of the Panel on all issues submitted.

On April 10, 2003, at the Initial Pre-hearing Conference in this matter, Claimant advised the Panel that it had withdrawn all claims against Respondent Q&R.

The parties have agreed that the Award in this matter may be entered in counterpart copies or that a signed handwritten 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) Respondent Simpfinderfer is found not liable on all claims asserted in the Statement of Claim.
- 2) Claimant is found not liable on all claims asserted in Respondent Simpfinderfer's Counterclaim.
- 3) Any and all claims for relief not specifically addressed herein, including the parties' requests for attorney's fees and Respondent Simpfinderfer's request for punitive damages, are 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	= \$1,000.00
Counterclaim filing fee	= \$ 225.00

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. Accordingly, Claimant is a party to this dispute and member of NASD at the time the following fees were assessed:

Member surcharge	= \$ 875.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$1,700.00

Respondent Q&R is a party to this dispute and member of NASD when the following fees were assessed:

Member surcharge	= \$ 325.00
Pre-hearing process fee	= \$ 750.00

Adjournment Fees

No requests for adjournments were filed in this matter.

Injunctive Relief Fees

No injunctive relief fees were incurred during this proceeding.

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:

One (1) Pre-hearing session with Panel @ \$750.00	= \$ 750.00
Pre-hearing conferences: April 10, 2003 1 session	
Two (2) Hearing sessions @ \$750.00	= \$1,500.00
Hearing Dates: September 16, 2003 2 sessions	
Total Forum Fees	= \$2,250.00

The Panel has assessed \$1,125.00 of the forum fees to Claimant.

The Panel has assessed \$1,125.00 of the forum fees to Respondent Simpfenderfer.

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.

No administrative costs were incurred during this proceeding.

Fee Summary

Claimant is solely liable for:

Initial Filing Fee	= \$ 1,000.00
Member Fees	= \$ 3,325.00
Forum Fees	= \$ 1,125.00
Total Fees	= \$ 5,450.00
Less payments	= \$ 4,925.00
Balance Due NASD Dispute Resolution	= \$ 525.00

Respondent Simpfenderfer is solely liable for:

Counterclaim Filing Fee	= \$ 225.00
Forum Fees	= \$ 1,125.00
Total Fees	= \$ 1,350.00
Less payments	= \$ 1,350.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent Q&R is solely liable for:

Member Fees	= \$ 1,075.00
Total Fees	= \$ 1,075.00
Less payments	= \$ 1,075.00
Balance Due NASD Dispute Resolution	= \$ 0.00

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

ARBITRATION PANEL

<i>S. David Anton, J.D.</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Robert S. Bernard, Esq.</i>	-	<i>Public Arbitrator</i>
<i>Robert W. Meyer</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

/s/
S. David Anton, J.D.
Public Arbitrator, Presiding Chairperson

9/24/03
Signature Date

/s/
Robert S. Bernard, Esq.
Public Arbitrator

9/24/03
Signature Date

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/s/
Robert W. Meyer
Non-Public Arbitrator

9/24/03
Signature Date

9/25/03
Date of Service (For NASD Dispute Resolution office use only)

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Fee Summary

Claimant is solely liable for:

Initial Filing Fee	= \$ 1,000.00
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ARBITRATION PANEL

S. David Anton, J.D.
 Robert S. Bernard, Esq.
 Robert W. Meyer

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Public Arbitrator, Presiding Chairperson
 Public Arbitrator
 Non-Public Arbitrator

Concurring Arbitrators' Signatures



S. David Anton, J.D.
 Public Arbitrator, Presiding Chairperson

9/24/03
 Signature Date

Robert S. Bernard, Esq.
 Public Arbitrator

 Signature Date

NASD Dispute Resolution
Arbitration No. 02-04913
Award Page 4

Fee Summary

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<u>Less payments</u>	<u>= \$ 4,925.00</u>
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Filing Fee	= \$ 225.00
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<u>Member Fees</u>	<u>= \$ 1,075.00</u>
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<u>Less payments</u>	<u>= \$ 1,075.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

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ARBITRATION PANEL

S. David Anton, J.D.
Robert S. Bernard, Esq.
Robert W. Meyer

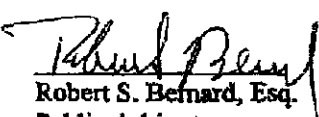
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Public Arbitrator, Presiding Chairperson
Public Arbitrator
Non-Public Arbitrator

Concurring Arbitrators' Signatures

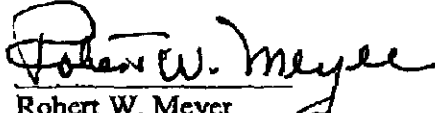
S. David Anton, J.D.
Public Arbitrator, Presiding Chairperson

Signature Date


Robert S. Bernard, Esq.
Public Arbitrator


Signature Date

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Robert W. Meyer
Non-Public Arbitrator

Sept 24, 2003
Signature Date

Date of Service (For NASD Dispute Resolution office use only)