
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Stephen Peritz

Case Number: 02-05007

Name of the Respondent
PaineWebber Incorporated d/b/a
UBS PaineWebber, Inc.

Hearing Site: Boca Raton, Florida

Nature of the Dispute: Associated Person vs. Member.

REPRESENTATION OF PARTIES

For Stephen Peritz, hereinafter referred to as "Claimant": Steven I. Weissman, Esq., Steven I. Weissman, P.A., Cooper City, Florida.

For PaineWebber Incorporated d/b/a UBS PaineWebber, Inc., hereinafter referred to as "Respondent": Frank C. Morris, Jr., Esq., Patrick F. Clark, Esq. and Brian Steinbach, Esq., Epstein Becker & Green, P.C., Washington, D.C.

CASE INFORMATION

Statement of Claim filed on or about: August 26, 2002.

Amendment to Statement of Claim and Reply to Respondent's Defenses filed by Claimant on or about: November 21, 2002.

Claimant signed the Uniform Submission Agreement: August 22, 2002.

Statement of Answer filed by Respondent on or about: October 29, 2002.

Respondent signed the Uniform Submission Agreement: October 29, 2002.

Motion to Dismiss Claim in its Entirety, Motion to Disqualify Counsel and Refer Claimant's Conduct for Investigation and Opposition to Claimant's Motion for Leave to Take the Depositions of Two Attorney-Witnesses for use at the Final Hearing and to Authorize Issuance of Subpoenas filed by Respondent on or about: August 12, 2003.

Reply to Respondent's Opposition to Motion for Leave to Take the Depositions of Two Attorney-Witnesses for use at the Final Hearing and to Authorize the Issuance of Subpoenas filed by Claimant on or about: August 15, 2003.

Response in Opposition to Motion to Disqualify Counsel and to Refer Claimant's Conduct for Investigation and Motion to Dismiss filed by Claimant on or about: August 27, 2003.

Motion for Summary Judgment and to Disqualify Counsel and Refer Claimant's Conduct for Investigation filed by Respondent on or about: August 28, 2003.

Motion to Enforce August 21, 2003 Order Granting Leave to Take Depositions filed by Claimant on or about: September 2, 2003.

Opposition to Claimant's Motion to Enforce August 21, 2003 Order Granting Leave to Take Depositions filed by Respondent on or about: September 4, 2003.

Reply to Opposition to Motion to Enforce August 21, 2003 Order Granting Leave to Take

Depositions filed by Claimant on or about: September 8, 2003.
Sur-Reply in Opposition to Claimant's Motion to Enforce August 21, 2003 Order Granting Leave to Take Depositions filed by Respondent on or about: September 8, 2003.
Response in Opposition to Respondent's Motion to Disqualify Counsel and to Refer Claimant's Conduct for Investigation and Motion for Summary Judgment filed by Claimant on or about: September 15, 2003.
Reply in Support of Motion for Summary Judgment and for Other Relief filed by Respondent on or about: October 1, 2003.
Motion for Default, Testimonial Presumption or Indefinite Stay filed by Claimant on or about: November 19, 2003.
Opposition to Claimant's Motion for Default, Testimonial Presumption or Indefinite Stay filed by Respondent on or about: December 5, 2003.
Reply to Respondent's Opposition to Motion for Default, Testimonial Presumption or Indefinite Stay filed by Claimant on or about: December 9, 2003.

CASE SUMMARY

Claimant asserted the following causes of action: Civil Remedy Pursuant to 18 U.S.C. § 1964(c) for Violation of 18 U.S.C. § 1962 (b); Civil Remedy Pursuant to 18 U.S.C. § 1964(c) for Violation of 18 U.S.C. § 1962 (c); Civil Remedy Pursuant to Florida Statute §772.104 for Violation of Florida Statute §772.103(2); and, fraud. The causes of action relate to Claimant's previous employment by Respondent and subsequent discharge.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim, asserted various defenses and filed a Motion to Dismiss the Amendment to Statement of Claim and a Motion for Summary Judgment on the following bases: Claimant's claims were barred by the doctrine of collateral estoppel; Claimant could not establish a claim for fraud; and, Claimant could not recover any damages in addition to those he received in the prior Americans With Disabilities Act ("ADA") case.

In response to the Motion to Dismiss and Motion for Summary Judgment, Claimant denied the assertions contained therein.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$4,000,000.00 which included damages for loss of his book of business, past and future lost wages, benefits and emotional distress, plus punitive damages in the amount of \$16,500,000.00, damages pursuant to the federal and Florida RICO acts, attorney's fees, costs and any other relief deemed just and proper.

Respondent requested dismissal of Claimant's claims, plus attorneys' fees and costs.

OTHER ISSUES CONSIDERED AND DECIDED

On or about November 21, 2002, Claimant amended his claim and withdrew Counts II (Civil

Remedy Pursuant to 18 U.S.C. § 1964(c) for Violation of 18 U.S.C. § 1962 (b)); III (Civil Remedy Pursuant to 18 U.S.C. § 1964(c) for Violation of 18 U.S.C. § 1962 (c); and, IV (Civil Remedy Pursuant to Florida Statute §772.104 for Violation of Florida Statute §772.103(2).

On or about August 21, 2003, the Panel issued an order which granted Claimant's Motion for Leave to Take the Depositions of Two Attorney-Witnesses for use at the Final Hearing and to Authorize Issuance of Subpoenas.

On or about October 3, 2003, the Panel issued an order which denied Claimant's Motion to Enforce August 21, 2003 Order Granting Leave to Take Depositions and deferred ruling on Respondent's Motion for Summary Judgment and to Disqualify Counsel and Refer Claimant's Conduct for Investigation until the pre-hearing conference with the Panel on October 8, 2003. In addition, the order asserted that the Motion for Summary Judgment would be limited to the issues of collateral estoppel and res judicata, without prejudice to Respondent later filing a motion for summary judgment on the substantive issue of fraud.

On or about October 9, 2003, the Panel issued an order which denied Respondent's Motions for Summary Judgment and to Disqualify Counsel and to Refer Claimant's Conduct for Investigation. The order also stated that the Motion for Summary Judgment had been limited to the issues of collateral estoppel and res judicata pursuant to the stipulation of the parties.

During a pre-hearing conference with the Panel on or about December 15, 2003, Claimant made an ore tenus amendment to his Motion for Default, Testimonial Presumption or Indefinite Stay and requested that the Panel direct the appearance of Francis Maloney at the final hearing. Thereafter, the Panel issued an order which denied the motion as to the request for default, testimonial presumption and indefinite stay, but granted the motion as to Frances Maloney's appearance at the final hearing.

The parties have agreed that the Award in this matter may be executed in counterpart copies.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Respondent is liable on the claim of fraud and shall pay to Claimant compensatory damages in the amount of \$365,000.00, plus interest which shall accrue at the Florida statutory rate from 30 days from the date of service of the Award until the date of payment of the Award.

Respondent is liable and shall pay to Claimant \$600.00 which represents reimbursement of the claim filing fee previously paid by Claimant to NASD Dispute Resolution.

Any and all claims for relief not specifically addressed herein, including Claimant's request for punitive damages and all parties' requests for attorneys' fees, are denied.

FEES

Pursuant to the NASD Code of Arbitration Procedure (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 = \$ 600.00

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 UBS PaineWebber, Inc. is a party.

Member surcharge = \$ 3,750.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$ 5,500.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

No requests for adjournments were filed in this matter.

Injunctive Relief Fees

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the Panel.

No injunctive relief fees were incurred in this matter.

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:

Three (3) Pre-hearing sessions with a single arbitrator @ \$450.00 = \$ 1,350.00

Pre-hearing conferences: May 19, 2003 1 session
August 19, 2003 1 session
October 3, 2003 1 session

Three (3) Pre-hearing sessions with the Panel @ \$1,200.00 = \$ 3,600.00

Pre-hearing conferences: March 3, 2003 1 session
October 8, 2003 1 session
December 15, 2003 1 session

Thirteen (13) Hearing sessions @ \$1,200.00		= \$15,600.00
Hearing Dates:		
	March 1, 2004	2 sessions
	March 2, 2004	2 sessions
	March 3, 2004	2 sessions
	March 4, 2004	2 sessions
	March 5, 2004	2 sessions
	May 12, 2004	3 sessions
Total Forum Fees		= \$20,550.00

The Panel has assessed the total forum fees of \$20,550.00 to 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 are 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 in this matter.

Fee Summary

Claimant is solely liable for:

<u>Initial Filing Fee</u>	= \$ 600.00
<u>Total Fees</u>	= \$ 600.00
<u>Less payments</u>	= \$ 600.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent is solely liable for:

Member Fees	= \$ 10,000.00
<u>Forum Fees</u>	= \$ 20,550.00
<u>Total Fees</u>	= \$ 30,550.00
<u>Less payments</u>	= \$ 10,000.00
Balance Due NASD Dispute Resolution	= \$ 20,550.00

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

ARBITRATION PANEL

Arthur J. Leibell, Esq.	-	Public Arbitrator, Presiding Chairperson
Joseph L. Bernstein, Esq.	-	Public Arbitrator
James Barry Wright	-	Public Arbitrator

Concurring Arbitrators' Signatures

/s/

05/21/04

Arthur J. Leibell, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

/s/

05/21/04

Joseph L. Bernstein, Esq.
Public Arbitrator

Signature Date

/s/

05/21/04

James Barry Wright
Public Arbitrator

Signature Date

05/21/04

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

NASD Dispute Resolution
Arbitration No. 02-05007
Award Page 6

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Public Arbitrator

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James Barry Wright
Public Arbitrator


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Public Arbitrator

Signature Date

5-21-04

Signature Date

James Barry Wright
Public Arbitrator

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NASD Dispute Resolution
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Award Page 6

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Public Arbitrator, Presiding Chairperson

May 21 2004
Signature Date

Joseph L. Bernstein, Esq.
Public Arbitrator

Signature Date

James Barry Wright
Public Arbitrator

Signature Date

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