

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

McDonald Investments, Inc.
and

Case Number: 02-06806
Hearing Site: Louisville, Kentucky

Name of Respondent

James B. Spear

NATURE OF DISPUTE

Member Firm v. Associated Person

REPRESENTATION OF PARTIES

McDonald Investments, Inc. ("**Claimant**" or "**McDonald Investments**") was represented by Matthew J. Morelli, Esq., Ulmer & Berne LLP, Cleveland, Ohio.

James B. Spear ("**Respondent**") of Evansville, Indiana, did not enter an appearance in this matter.

CASE INFORMATION

The Statement of Claim was filed on or about November 11, 2002.

The Submission Agreement of Claimant McDonald Investments, Inc. was signed on or about October 17, 2002.

Respondent Spears did not file either a Submission Agreement or a Statement of Answer.

CASE SUMMARY

Claimant alleges a failure to repay a loan agreement. On or about September 20, 1999, McDonald Investments advanced to Spears as a loan the sum of \$180,000.00. This loan was memorialized in a loan agreement. The loan agreement provides that if Spears' employment should terminate, the entire unpaid principal amount of the loan shall be immediately due and payable. As a result of Spears' failure to honor his obligations pursuant to the loan agreement, McDonald Investments is requesting \$64,800.00 which includes the principal balance due and owing under the Loan Agreement, plus interest,

costs, expenses and attorney's fees.

RELIEF REQUESTED

Claimant requested an award in the amount of:

Actual/Compensatory	\$64,800.00
Interest	Unspecified
Attorney's Fees	Unspecified
Other Costs	Unspecified
Other Monetary Relief	Unspecified

OTHER ISSUES CONSIDERED & DECIDED

By letter dated October 23, 2003, Claimant opted to proceed against Respondent Evans pursuant to Rule 10314(e) of the NASD Code of Arbitration Procedure ("Code").

The arbitrator determined that Respondent Spears was properly served notice of the Statement of Claim and Notification of the Arbitrator by certified mail, and that Respondent Spears is required to submit to arbitration pursuant to the Code and is bound by the determination of the Arbitrator on all issues submitted.

AWARD

The undersigned arbitrator has decided and determined in full and final resolution of the issues for determination as follows:

- 1.) Respondent, James B. Spear, is liable for and shall pay to Claimant, McDonald Investments, Inc., the sum of \$64,800.00 in compensatory damages, plus interest at the rate of 10% per annum from and including January 11, 2002 through and including the date the award is paid in full, pursuant to the Ohio Revised Code §1343.03
- 2.) Any relief not specifically enumerated, including punitive damages, is hereby denied with prejudice.

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

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 is McDonald Investments, Inc.

Member surcharge = \$1,100.00

Pre-hearing process fee = \$ 750.00

Forum Fees and Assessments

The Arbitrator assesses forum fees for each hearing session conducted. A hearing 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:

1 Pre-hearing session with Panel	x	750.00	\$	750.00
May 21, 2003	1	Session		
Total			\$	<u>750.00</u>

The Arbitrator assesses a forum fee for an Award issued under the Default Proceedings. Fees associated with these proceedings are:

Default Proceedings = \$ 300.00

Total Forum Fees = \$1,050.00

The Arbitrator has assessed \$525.00 of the forum fees to McDonald Investments, Inc.

The Arbitrator has assessed \$525.00 of the forum fees to James B. Spear.

FEE SUMMARY

Claimant, McDonald Investments, Inc., is liable for:

Initial Filing Fee	= \$ 1,000.00
Member Fees	= \$ 1,850.00
Forum Fees	= \$ 525.00
Total Fees	= \$ 3,375.00
Less payments	= \$ 4,350.00
Refund due to Claimant	= \$ 975.00

Respondent, James B. Spear, is liable for:

Forum Fees	= \$ 525.00
Total Fees	= \$ 525.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 525.00

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

ARBITRATOR

William Lewis Brown, Esq. – Industry Arbitrator, Presiding Chair

Arbitrator:

/s/ William Lewis Brown, Esq.
William Lewis Brown, Esq.
Industry Arbitrator, Presiding Chair

3/19/04
Signature Date

3/19/04
Date of Service (For NASD office use only)

Initial Filing Fee	= \$ 1,000.00
Member Fees	= \$ 1,850.00
Forum Fees	= \$ 525.00
Total Fees	= \$ 3,375.00
Less payments	= \$ 4,350.00
Refund due to Claimant	= \$ 975.00

Respondent, James B. Spear, is liable for:

Forum Fees	= \$ 525.00
Total Fees	= \$ 525.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 525.00

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

ARBITRATOR

William Lewis Brown, Esq. – Industry Arbitrator, Presiding Chair

Arbitrator:



William Lewis Brown, Esq.
Industry Arbitrator, Presiding Chair

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