

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

Gary Tomlinson

and

03-00438

Oklahoma City, Oklahoma

Name of Respondent

Arvest Bank Operations, Inc.

Nature of the Dispute: Customer vs. Member

REPRESENTATION OF PARTIES

Gary Tomlinson ("**Claimant**") was represented by Jeff Nix, Esq., Tulsa, Oklahoma.

Arvest Bank Operations, Inc. ("**Respondent**") was represented by James R. Polan, Esq. and Kristopher E. Koepsel, Esq., Riggs, Abney, Neal, Turpen, Orbison & Lewis, Tulsa, Oklahoma

CASE INFORMATION

The Statement of Claim was filed on or about January 17, 2003. The Submission Agreement of Claimant Gary Tomlinson was signed on or about March 21, 2003.

The Statement of Answer was filed by Respondent Arvest Bank Operations, Inc. on or about January 23, 2003. The Submission Agreement of Arvest Bank Operations, Inc. was signed on or February 24, 2003.

CASE SUMMARY

Claimant asserted the following causes of action: breach of employment contract; fraud; and defamation, all of which arose out of the termination of his employment at Arvest Bank Operations, Inc.

Unless specifically admitted in its Answer, Respondent Arvest Bank Operations, Inc. denied the allegations made in the Statement of Claim and made the following defenses: failure to state a claim upon which relief can be granted; privilege; failure to mitigate damages; unclean hands; equitable estoppel; waiver; and, any communications made by Defendant Plaintiff was true and/or made upon a good faith belief in its truth.

RELIEF REQUESTED

Claimant requested an award in the amount of \$100,000.00 as compensatory damages, plus costs, attorney's fees and all other relief appropriate at law or in equity.

Respondent requested that the claims asserted against it be denied in their entirety and that it be awarded their costs, attorney's fees and such other and further relief as the Panel deems just and appropriate.

OTHER ISSUES CONSIDERED & DECIDED

The parties filed a Joint Motion to Stay Proceedings Pending Arbitration and to Strike Joint Status Report, and Brief in Support on or about November 27, 2001.

The parties filed a Joint Request for Arbitration on or about January 17, 2003.

The parties submitted a Joint Request to have Arbitrator Edwin O'Brien removed from the Panel on or about July 29, 2003. Arbitrator Robert Steven Haught, Esq. replaced him on the Panel.

Respondent filed a Motion for Partial Summary Judgment, and Brief in Support on or about February 13, 2004.

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with the NASD Dispute Resolution (the "NASD").

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. The claims asserted in this matter are denied in their entirety.
2. That to the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto are denied with prejudice.
3. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys fees.

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 = \$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 event giving rise to the dispute. In this matter, the member firm is Arvest Asset Management.

Member surcharge	\$	1,100.00
Pre-hearing process fee	\$	750.00
Hearing process fee	\$	<u>1,700.00</u>
Total Member Fees	\$	3,550.00

Adjournment Fees

Adjournments requested during these proceedings:

April 13-14, 21004 Hearing Dates, adjournment requested
by Claimant Gary Tomlinson = \$750.00

Forum Fees and Assessments

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrator, including a pre-hearing conference with the arbitrator that lasts four (4) hours or less. Fees associated with these proceedings are:

1	Pre-hearing session with Arbitrator	x	450.00	\$	450.00
	October 27, 2003	1	Session		
2	Hearing sessions	x	750.00		1,500.00
	June 21, 2004	2	Sessions		
	Total Forum Fees			\$	<u>1,950.00</u>

The Arbitration Panel has assessed \$975.00 of the forum fees to Gary Tomlinson.
The Arbitration Panel has assessed \$975.00 of the forum fees to Arvest Bank Operations, Inc.

Fee Summary

Claimant, Gary Tomlinson, shall be and hereby is liable for:

Initial Filing Fee	= \$	225.00
Adjournment Fee	= \$	750.00
<u>Forum Fees</u>	= \$	<u>975.00</u>
Total Fees	= \$	1,950.00
<u>Less payments</u>	= \$	<u>-975.00</u>
Balance Due to the NASD Dispute Resolution	= \$	975.00

Respondent, Arvest Asset Management, shall be and hereby is liable for:

<u>Member Fees</u>	= \$	<u>3,550.00</u>
Total Fees	= \$	3,550.00
<u>Less payments</u>	= \$	<u>-3,550.00</u>
Balance Due to the NASD Dispute Resolution	= \$	0.00

Respondent, Arvest Bank Operations, Inc., shall be and hereby is liable for:

<u>Forum Fees</u>	= \$	<u>975.00</u>
Total Fees	= \$	975.00
<u>Less payments</u>	= \$	<u>-0.00</u>
Balance Due to the NASD Dispute Resolution	= \$	975.00

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

ARBITRATION PANEL

Robert Steven Haught, Esq. - Public Arbitrator, Presiding Chair

Concurring Arbitrators:

/s/ Robert Steven Haught, Esq.

Robert Steven Haught, Esq.
Public Arbitrator, Presiding Chair

07/10/04

Signature Date

07/12/04

Date of service

The Arbitration Panel has assessed \$975.00 of the forum fees to Arvest Bank Operations, Inc.

Fee Summary

Claimant, Gary Tomlinson, shall be and hereby is liable for:

Initial Filing Fee	= \$	225.00
Adjournment Fee	= \$	750.00
<u>Forum Fees</u>	= \$	<u>975.00</u>
Total Fees	= \$	1,950.00
<u>Less payments</u>	= \$	<u>-975.00</u>
Balance Due to the NASD Dispute Resolution	= \$	975.00

Respondent, Arvest Bank Operations, Inc., shall be and hereby is liable for:

Member Fees	= \$	3,550.00
<u>Forum Fees</u>	= \$	<u>975.00</u>
Total Fees	= \$	4,525.00
<u>Less payments</u>	= \$	<u>-3,550.00</u>
Balance Due to the NASD Dispute Resolution	= \$	975.00

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

ARBITRATION PANEL

Robert Steven Haught, Esq. - Public Arbitrator, Presiding Chair

Concurring Arbitrators:

Robert Steven Haught
Robert Steven Haught, Esq.
Public Arbitrator, Presiding Chair

7/10/01
Signature Date

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