

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
R.M. Stark & Co., Inc.,

Case Number: 03-00765

Name of the Respondent
Andrew D. Murphy

Hearing Site: Boca Raton, Florida

Nature of the Dispute: Member v. Associated Person.

REPRESENTATION OF PARTIES

For R. M. Stark & Co., Inc. ("RMSCI"), hereinafter referred to as "Claimant": Gary L. Stark, CEO, R. M. Stark & Co., Inc., Delray Beach, Florida and Ellen R. P. Adler, Vice President/Legal Department, R. M. Stark & Co., Inc., Delray Beach, Florida.

For Andrew D. Murphy ("Murphy"), hereinafter referred to as "Respondent": Matthew N. Thibaut, Esq., Boose Casey Ciklin Lubitz Martens McBane & O'Connell, West Palm Beach, Florida.

CASE INFORMATION

Statement of Claim filed on or about: January 30, 2003.

Claimant RMSCI signed the Uniform Submission Agreement: January 30, 2003.

Statement of Answer filed by Respondent on or about: March 31, 2003.

Respondent signed the Uniform Submission Agreement: March 25, 2003.

Motion to Strike and/or Dismiss filed by Respondent on or about: March 28, 2003.

Response to Motion to Strike and/or Dismiss filed by Claimant on or about: April 14, 2003.

Motion to Amend Answer and Affirmative Defenses filed by Respondent on or about: September 24, 2003.

Opposition to Motion to Amend Answer and Affirmative Defenses filed by Claimant on or about: October 13, 2003.

CASE SUMMARY

Claimant alleged the following: Respondent breached the terms of a Promissory Note which memorialized a loan made by Claimant to Respondent. The loan was made by Claimant to Respondent in connection with Respondent's employment with Claimant.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted various defenses.

RELIEF REQUESTED

Claimant requested compensatory damages of \$18,845.25, plus interest of eight percent (8%) per annum from January 15, 2003, fees and the costs of this proceeding.

Respondent requested that all claims against him be dismissed, that Claimant be assessed attorneys' fees and costs, and that all references to this matter be expunged from his NASD Central Registration Depository ("CRD") record.

OTHER ISSUES CONSIDERED AND DECIDED

The undersigned arbitrator (the "Arbitrator") denied Respondent's Motion to Strike and/or Dismiss by Order dated August 20, 2003.

The Arbitrator denied Respondent's Motion to Amend Answer and Affirmative Defenses by Order dated October 15, 2003.

AWARD

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

1. Respondent Murphy is liable on the claim of breach of contract and shall pay to Claimant the sum of \$18,845.25 in compensatory damages, plus interest at the rate of eight percent (8%) per annum from January 15, 2003 until the date of payment of the Award.
2. Any and all claims for relief not specifically addressed herein, 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	= \$750.00
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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, RMSCI is a member and a party.

Member surcharge	= \$425.00
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Adjournment Fees

No adjournments were granted during these proceedings for which fees were assessed.

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 during this proceeding.

Forum Fees and Assessments

The Arbitrator has assessed forum fees for each session conducted. A 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:

One (1) Pre-hearing session with a single arbitrator @ \$450.00	= \$ 450.00
Pre-hearing conference: August 7, 2003	1 session

Two (2) Hearing sessions with a single arbitrator @ \$450.00	= \$ 900.00
Hearing Date: October 21, 2003	2 sessions

Total Forum Fees	= \$1,350.00
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The Arbitrator has assessed \$675.00 of the forum fees to Claimant.

The Arbitrator has assessed \$675.00 of the forum fees 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 not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative fees were incurred during this proceeding.

Fee Summary

Claimant is solely liable for:

Initial Filing Fee	= \$ 750.00
Member Fees	= \$ 425.00
Forum Fees	= \$ 675.00

Total Fees	= \$1,850.00
<u>Less payments</u>	<u>= \$1,525.00</u>
Balance Due NASD Dispute Resolution	= \$ 325.00

Respondent is solely liable for:

<u>Forum Fees</u>	<u>= \$ 675.00</u>
Total Fees	= \$ 675.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$ 675.00

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

ARBITRATOR

Donald R. McGahan

- Non-Public Arbitrator, Presiding Chairperson

Arbitrator's Signature

/s/
Donald R. McGahan
Non-Public Arbitrator, Presiding Chairperson

Signature Date

November 18, 2003
Date of Service (For NASD Dispute Resolution office use only)

Total Fees	= \$1,850.00
<u>Less payments</u>	<u>= \$1,525.00</u>
Balance Due NASD Dispute Resolution	= \$ 325.00

Respondent is solely liable for:

Forum Fees	= \$ 675.00
Total Fees	= \$ 675.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$ 675.00

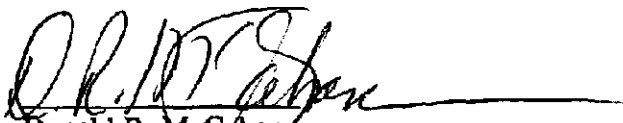
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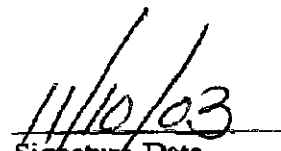
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Donald R. McGahan

- Non-Public Arbitrator, Presiding Chairperson

Arbitrator's Signature


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