

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Paul DeMarco (Claimant) v. Nomura Securities International, Inc. (Respondent)

Case Number: 03-00990

Hearing Site: New York, New York

Nature of the Dispute: Associated Person vs. Member.

REPRESENTATION OF PARTIES

Claimant Paul DeMarco ("DeMarco") hereinafter referred to as "Claimant":
Peter C. Lucas, Esq., Lucas & McGoughran, LLC, Oakhurst, NJ.

Respondent Nomura Securities International, Inc. ("Nomura") hereinafter referred to as
"Respondent": Janet A. Broeckel, Esq., Pillsbury Winthrop, LLP, New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: February 4, 2003.
Opposition to Respondent's Motion to Dismiss and Cross-Motion for Summary
Judgment filed by Claimant on or about: May 15, 2003.
Answer to Counterclaim filed by Claimant on or about: March 5, 2004.
Claimant signed the Uniform Submission Agreement: February 3, 2003.

Answer and Motion to Dismiss filed by Respondent on or about: April 25, 2003.
Revised Answer/Motion to Dismiss/Counterclaim filed by Respondent on or about:
February 26, 2004.
Respondent signed the Uniform Submission Agreement: April 25, 2003 and September
3, 2003.

CASE SUMMARY

Claimant asserted the following causes of action: breach of contract; wrongful
termination; failure to pay owed compensation; and tortious interference.

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

Unless specifically admitted in its Answer/Motion to Dismiss, and in its Revised
Answer/Motion to Dismiss/Counterclaim, Respondent denied the allegations made in the
Statement of Claim and asserted various affirmative defenses.

In its Counterclaim, Respondent asserted the following causes of action: misappropriation of trade secrets and breach of employment agreement.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

- a) Guaranteed bonus of \$525,000.00;
- b) Salary from October 17, 2002 to March 31, 2003 in the amount of \$80,770.00;
- c) Health insurance benefits from October 17, 2002 to present;
- d) 401K contributions in the amount of \$9,600.00;
- e) Damage to Claimant's reputation;
- f) Loss of career opportunities;
- g) Punitive damages in the amount of \$500,000.00;
- h) Attorneys' fees, interest, and costs;
- i) Other relief as may be just and equitable.

In his Opposition to Respondent's Motion to Dismiss and Cross-Motion for Summary Judgment, Claimant requested that Respondent's Motion to Dismiss be denied and that Claimant's Cross-Motion for Summary Judgment be granted.

In his Answer to Counterclaim, Claimant requested that the Panel dismiss Respondent's Counterclaim in its entirety and award Claimant punitive damages, attorneys' fees, and costs due to the frivolous nature of the claim asserted.

In its Answer/Motion to Dismiss, and in its Revised Answer/Motion to Dismiss/Counterclaim, Respondent requested dismissal of the Statement of Claim in its entirety, together with attorneys' fees and costs based on the frivolous nature of the claims both in law and fact. Respondent also requested that upon dismissal of the claims in their entirety, that all forum fees assessed in this case be allocated to Claimant, that the member surcharge assessed be refunded pursuant to NASD Rule 10333, and that Respondent be awarded such other relief as the Panel may deem proper.

In its Counterclaim, Respondent sought an order requiring Claimant to return all documents he has copied or removed from Respondent either directly or indirectly, including all copies, and prohibiting him from sharing the information contained in these documents with anyone not currently employed by Respondent. In light of Claimant's undisputed willful and wanton misappropriation of Respondent's trade secrets, Nomura also sought costs relating to the preparation of its amended answer as well as punitive damages to address the significant risk posed to Nomura by the introduction of its trade secrets into the marketplace, and specifically, to a direct competitor such as Daiwa Securities. *See A.F.A. Tours, Inc. v. Whitchurch*, 937 F.2d 82,87 (2d Cir. 1991).

OTHER ISSUES CONSIDERED AND DECIDED

The Panel granted Claimant's Motion to Dismiss Respondent's Counterclaim.

Respondent then moved for costs of the dismissed Counterclaim. After due consideration, the Panel denied the motion.

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.

AWARD

After considering the pleadings, and 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. Claimant's claims are denied in their entirety.
2. The Counterclaims of Respondent are denied in their entirety.
3. Any and all relief not specifically addressed herein, including punitive damages, is 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	= \$500.00
Counterclaim filing fee	= \$500.00

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, Nomura Securities International, Inc. is a party.

Member surcharge	= \$2,800.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$5,000.00

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:

Two (2) Pre-hearing sessions with Panel @ \$1,200.00	= \$2,400.00
Pre-hearing conferences: October 16, 2003 1 session	
January 8, 2004 1 session	
Four (4) Hearing sessions @ \$1,200.00	= \$4,800.00
Hearing Dates: May 10, 2004 2 sessions	
May 14, 2004 2 sessions	
Total Forum Fees	= \$7,200.00

1. The Panel assessed forum fees of \$7,200.00 against Respondent.

Fee Summary

1. Claimant is solely liable for:

<u>Initial Filing Fee</u>	= \$ 500.00
Total Fees	= \$ 500.00
<u>Less payments</u>	= \$ 1,700.00
Refund Due to Claimant	= \$ 1,200.00

2. Respondent is solely liable for:

Counterclaim Filing Fee	= \$ 500.00
Member Fees	= \$ 8,550.00
<u>Forum Fees</u>	= \$ 7,200.00
Total Fees	= \$16,250.00
<u>Less payments</u>	= \$10,050.00
Balance Due NASD Dispute Resolution	= \$ 6,200.00

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

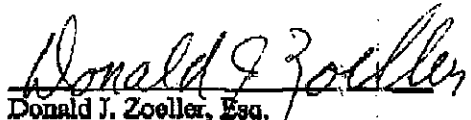
ARBITRATION PANEL

Donald J. Zoeller, Esq.
Eugene Tenenbaum
Robert A. Cohen

Public Arbitrator, Presiding Chair
Public Arbitrator
Non-Public Arbitrator

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.


Donald J. Zoeller, Esq.
Public Arbitrator, Presiding Chairperson


Signature Date

Eugene Tenenbaum
Public Arbitrator

Signature Date

Robert A. Cohen
Non-Public Arbitrator

Signature Date

May 26, 2004

Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

Donald J. Zoeller, Esq.	-	Public Arbitrator, Presiding Chair
Eugene Tenenbaum	-	Public Arbitrator
Robert A. Cohen	-	Non-Public Arbitrator

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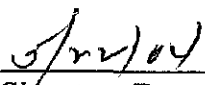
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Donald J. Zoeller, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date



Eugene Tenenbaum
Public Arbitrator



Signature Date

Robert A. Cohen
Non-Public Arbitrator

Signature Date

May 26, 2004

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Donald J. Zoeller, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Eugene Tenenbaum
Public Arbitrator

Signature Date



Robert A. Cohen
Non-Public Arbitrator

24 May 2004
Signature Date

May 26, 2004

Date of Service (For NASD Dispute Resolution use only)