

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

David J. Boczar (Claimant) v. BPC Group, Inc., Bryant Park Capital, Inc., CRA Group, L.P., Capital Resource Holdings, LLC, VIP Management Corp., Value Investing Partners, Inc., Kevin R. Greene, Joel Magerman, VI Partners I, LLC, and VI Partners II, LLC (Respondents)

Case Number: 03-01224

Hearing Site: New York, New York

Nature of the Dispute: Associated Person v. Members, Non-Members, and Associated Persons.

REPRESENTATION OF PARTIES

Claimant David J. Boczar ("Boczar") hereinafter referred to as "Claimant": Alan L. Sklover, Esq., Sklover & Associates, LLC, formerly Sklover, Himmel & Bernstein, LLP, New York, NY.

Respondents BPC Group, Inc., ("BPC Group"), CRA Group, L.P., ("CRA"), Capital Resource Holdings, LLC ("Capital Resource"), VIP Management Corp. ("VIP Management"), Value Investing Partners, Inc. ("VIP"), Kevin R. Greene ("Greene"), VI Partners I, LLC ("VI Partners I") and VI Partners II, LLC ("VI Partners II"): Gabriel M. Nugent, Esq., Thelen Reid & Priest, LLP, New York, NY.

Respondents Bryant Park Capital, Inc. ("BPCI") and Joel Magerman ("Magerman"): Michael S. Hino, Esq., Pepper Hamilton, LLP, Berwyn, PA. Previously represented by: Gabriel M. Nugent, Esq., Thelen Reid & Priest, LLP, New York, NY.

BPC Group, CRA, Capital Resource, VIP Management, VIP, Greene, VI Partners I, VI Partners II, BPCI, and Magerman are hereinafter collectively referred to as "Respondents".

CASE INFORMATION

Statement of Claim filed on or about: February 14, 2003.

Claimant signed the Uniform Submission Agreement: January 29, 2003.

Joint Statement of Answer filed by Respondents on or about: June 6, 2003.

Respondent BPC Group signed the Uniform Submission Agreement: August 12, 2003.

Respondent BPCI signed the Uniform Submission Agreement: August 12, 2003.
Respondent CRA signed the Uniform Submission Agreement: August 12, 2003.
Respondent Capital Resource signed the Uniform Submission Agreement.
Respondent VIP Management signed the Uniform Submission Agreement: August 12, 2003.
Respondent VIP signed the Uniform Submission Agreement: August 12, 2003.
Respondent Greene signed the Uniform Submission Agreement: August 12, 2003.
Respondent VI Partners I signed the Uniform Submission Agreement: August 12, 2003.
Respondent VI Partners II signed the Uniform Submission Agreement: August 12, 2003.
Respondent Magerman did not sign the Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: breach of contract to exchange BPC common shares for CRA units; promissory estoppel; equitable estoppel; conversion (stock exchange); fraud in the inducement (stock exchange); common law fraud (stock exchange); negligent misrepresentation; common law fraud (theft of funds affecting value of Boczar's stock); conversion (theft of funds affecting value of Boczar's stock); breach of obligation and agreement to pay annual bonuses; tortious interference with employment contract; tortious interference with prospective business relations; defamation; and slander per se.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim.

RELIEF REQUESTED

Claimant requested:

- A. An award and judgment compelling Respondents to honor their prior agreement wherein Claimant was allowed to exchange 224,881 BPC common shares for 3,375 CRA units without restriction.
- B. Respondents shall pay Claimant the cash value of the 24,560 common shares held by Claimant that were not subject to the agreed upon stock exchange.
- C. Full change of ownership of all warrants and any other securities allocated to Claimant, or in which he has an interest, in VI Partners I and VI Partners II.
- D. Respondents shall pay Claimant a bonus for year 2000 in the amount of \$110,000.00.
- E. Respondents shall pay Claimant a bonus for year 2001 in the amount of \$120,000.00.
- F. Respondents shall pay Claimant severance compensation in the amount of \$397,500.00.
- G. Respondents shall pay Claimant \$500,000.00 for their tortious interference with Claimant's continued employment, resulting from their wrongful and improper motive.

- H. Respondents shall pay Claimant \$250,000.00 for their tortious interference with business relations, resulting from their actions preventing Claimant from seeking gainful employment in his profession.
- I. Respondent shall pay Claimant \$250,000.00 for the defamatory statements made about Claimant, the reason for his termination, and false accusations regarding his work performance.
- J. Respondents shall pay Claimant the cash equivalent for the cost of health care coverage of the type held by Claimant as of the date of the termination of his employment.
- K. Respondents shall pay Claimant in cash for all accrued but unused vacation time earned by Claimant as of the date of the termination of his employ.
- L. Respondents shall cause to have prepared and executed an agreement that fully and without qualification or restriction indemnifies, releases, and holds harmless Claimant against any and all claims or resultant damages for which he might be charged or for which he might suffer a pecuniary damage award, arising from or in connection with Claimant's employ since 1994 at Respondent entities or any of its successor or associated entities, or for acts or omissions which are claimed to have occurred while Claimant operated in the capacity as an officer of same. The comprehensive indemnification shall extend to all legal, regulatory, or other proceedings, legal or otherwise, which may be brought in any forum, within or outside the United States. Further, Claimant's right to indemnification shall include his right to be advanced by Respondent entities any expenses, legal or otherwise, that may be incurred in connection with any indemnifiable event, and the right to secure counsel of his own choosing.

In addition, such indemnification agreement shall include a provision consistent with the terms of the immediately preceding paragraph, which fully indemnifies, releases, and holds harmless Claimant against any and all claims or damages suffered relating to or arising from the operation of Value Investing Partners (UK), Ltd.

- M. Respondents shall provide a favorable letter of recommendation regarding Claimant and his performance at the Respondent entities. Such letter shall be agreeable to Claimant and may be used by Claimant in connection with his professional endeavors.
- N. Respondents shall be restrained and are enjoined from uttering or disseminating any communication that is either false or may be taken to negatively reflect upon Claimant, his professional work, or character, in any manner.
- O. Claimant shall be permitted to possess, retain, and utilize all reports and research pieces written by Claimant and to be used for purposes of a professional portfolio.
- P. Respondents shall be jointly and severally liable for any breach of the above-granted relief and, in the event of a breach, Claimant shall be permitted to pursue any redress for damages or injunctive relief in any court of law or other forum in which the claims for breach may be properly brought.
- Q. Interest, costs in the amount of \$3,700.00, attorneys' fees, and other case-related

costs.

R. Punitive damages in the amount of \$3,000,000.00.

Respondents requested that Claimant's claims be dismissed.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Magerman did not file with NASD Dispute Resolution a properly executed Uniform Submission Agreement but is required to submit to arbitration pursuant to the Code and, having answered the claim, is bound by the determination of the Panel on all issues submitted.

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, and the post-hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent BCP Group is liable for and shall pay to Claimant compensatory damages in the amount of \$25,000.00.
2. Respondent BCP Group is liable for and shall pay to Claimant compensatory damages in the amount of \$86,094.88 in exchange for all of the outstanding shares of stock of BPC Group owned by Claimant (12.08% of all of the outstanding shares of stock of BPC Group).
3. Nothing in this award shall affect the interest of Claimant in Respondent VI Partners I and Respondent VI Partners II.
4. 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 = \$600.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated persons at the time of the events giving rise to the dispute. Accordingly, Bryant Park Capital, Inc. is a party.

Member surcharge = \$3,350.00
Pre-hearing process fee = \$ 750.00
Hearing process fee = \$5,500.00

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated persons at the time of the events giving rise to the dispute. Accordingly, Value Investing Partners, Inc. is a party.

Member surcharge = \$3,350.00
Pre-hearing process fee = \$ 750.00
Hearing process fee = \$5,500.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

February 10-13, 2004, joint adjournment request = \$1,200.00
Claimant's share = \$600.00
Respondents' share = \$600.00

May 17-19, 2004, adjournment by Respondents = \$1,200.00

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 a single arbitrator @ \$450.00 = \$ 900.00
Pre-hearing conferences: December 10, 2003 1 session
March 17, 2004 1 session

One (1) Pre-hearing session with Panel @ \$1,200.00 = \$1,200.00
Pre-hearing conference: September 10, 2003 1 session

Six (6) Hearing sessions @ \$1,200.00 = \$7,200.00
Hearing Dates: June 28, 2004 2 sessions
June 29, 2004 2 sessions
June 30, 2004 2 sessions

Total Forum Fees = \$9,300.00

1. The Panel has assessed \$4,650.00 of the forum fees against Claimant.
2. The Panel has assessed \$4,650.00 of the forum fees against Respondent BPC Group.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 600.00
Adjournment Fee	= \$ 600.00
<u>Forum Fees</u>	<u>= \$4,650.00</u>
Total Fees	= \$5,850.00
<u>Less payments</u>	<u>= \$3,700.00</u>
Balance Due NASD Dispute Resolution	= \$2,150.00

2. Respondent Bryant Park Capital, Inc. is solely liable for:

<u>Member Fees</u>	<u>= \$9,600.00</u>
Total Fees	= \$9,600.00
<u>Less payments</u>	<u>= \$9,150.00</u>
Balance Due NASD Dispute Resolution	= \$ 450.00

3. Respondent Value Investing Partners, Inc. is solely liable for:

<u>Member Fees</u>	<u>= \$9,600.00</u>
Total Fees	= \$9,600.00
<u>Less payments</u>	<u>= \$0.00</u>
Balance Due NASD Dispute Resolution	= \$9,600.00

4. Respondent BPC Group, Inc. is solely liable for:

<u>Forum Fees</u>	<u>= \$4,650.00</u>
Total Fees	= \$4,650.00
<u>Less Payments</u>	<u>= \$0.00</u>
Balance Due NASD Dispute Resolution	= \$4,650.00

4. Respondents are jointly and severally liable for:

<u>Adjournment Fees</u>	<u>= \$1,800.00</u>
Total Fees	= \$1,800.00
<u>Less payments</u>	<u>= \$0.00</u>
Balance Due NASD Dispute Resolution	= \$1,800.00

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


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ARBITRATION PANEL

Marvin H. Ginsky, Esq.	-	Public Arbitrator, Presiding Chairperson
Constantine N. Katsoris, Esq.	-	Public Arbitrator
Linda S. Cole	-	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 in which is my award.



Marvin H. Ginsky, Esq.
Public Arbitrator, Presiding Chairperson

7/19/04

Signature Date

Constantine N. Katsoris, Esq.
Public Arbitrator

Signature Date

Linda S. Cole
Non-Public Arbitrator

Signature Date

July 21, 2004

Date of Service (For NASD Dispute Resolution use only)

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ARBITRATION PANEL

Marvin H. Ginsky, Esq.
Constantine N. Katsoris, Esq.
Linda S. Cole

- Public Arbitrator, Presiding Chairperson
- 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 in which is my award.

Marvin H. Ginsky, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Constantine N. Katsoris, Esq.
Public Arbitrator

Signature Date



Linda S. Cole
Non-Public Arbitrator

7/16/04
Signature Date

July 21, 2004

Date of Service (For NASD Dispute Resolution use only)