

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Domingo Santa Cruz (Claimant) v. William B. Austin, Alan Peterson, and Austin & Associates (Respondents)

Case Number: 03-01556

Hearing Site: New York, New York

Nature of the Dispute: Associated Person vs. Member and Associated Person.

REPRESENTATION OF PARTIES

Claimant Domingo Santa Cruz ("Santa Cruz") hereinafter referred to as "Claimant":
Lovester Wilson, Esq., Frankfurt/Main, Germany.

Respondents William B. Austin ("Austin"), Alan Peterson ("Peterson"), and Austin & Associates ("Austin & Associates") hereinafter collectively referred to as "Respondents":
Joan Gaughan Atlas, Esq., Philadelphia, PA.

CASE INFORMATION

Statement of Claim filed on or about: February 26, 2003.
Rebuttal to Response of Respondents filed on or about: June 16, 2003.
Claimant signed the Uniform Submission Agreement: September 12, 2002.

Joint Statement of Answer filed by Respondents on or about: May 1, 2003.
Respondents did not sign Uniform Submission Agreements.

CASE SUMMARY

Claimant asserted the following causes of action: negligence; failure to execute; breach of fiduciary duty; breach of contract; failure to pay commissions and compensation; libel or slander on Form U-5; and defamation.

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

RELIEF REQUESTED

Claimant requested actual damages in the amount of \$55,307.06; punitive damages in the amount of \$44,692.94; a clean U-5 and a letter of apology from Respondents; attorneys' fees for the U.S. Attorney in the amount of \$10,000.00; and attorneys' fees for the

German Attorney in the amount of \$982.00.

Respondents denied the allegations made in the Statement of Claim.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents did not file with NASD Dispute Resolution properly executed Uniform Submission Agreements but are required to submit to arbitration pursuant to the Code and, having answered the claim, and appeared and testified at the hearing, are 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, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents Austin and Austin & Associates are jointly and severally liable for and shall pay to Claimant compensatory damages in the amount of \$50,000.00.
2. All claims against Respondent Peterson are denied and dismissed in their entirety.
2. Any and all relief not specifically addressed herein, including attorney's fees and 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	= \$225.00
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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 persons at the time of the events giving rise to the dispute. Accordingly, Austin & Associates is a party.

Member surcharge	= \$1,100.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$1,700.00

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:

One (1) Pre-hearing session with Panel @ \$750.00	= \$ 750.00
Pre-hearing conference: December 1, 2003 1 session	
Four (4) Hearing sessions @ \$750.00	= \$3,000.00
Hearing Dates: May 3, 2004 2 sessions	
May 4, 2004 2 sessions	
Total Forum Fees	= \$3,750.00

1. The Panel has assessed \$3,750.00 of the forum fees jointly and severally against Respondents Austin and Austin & Associates.

Fee Summary

1. Claimant is solely liable for:

<u>Initial Filing Fee</u>	= \$ 225.00
Total Fees	= \$ 225.00
<u>Less payments</u>	= \$ 975.00
Refund Due to Claimant	= \$ 750.00

2. Austin & Associates is solely liable for:

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

3. Respondents Austin and Austin & Associates are jointly and severally liable for:

<u>Forum Fees</u>	= \$3,750.00
Total Fees	= \$3,750.00
<u>Less payments</u>	= \$1,300.00
Balance Due NASD Dispute Resolution	= \$2,450.00

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

ARBITRATION PANEL


Julian F. Santos	-	Public Arbitrator, Presiding Chair
Richard A. Dice, Esq.	-	Public Arbitrator
Patrick J. Howley, Esq.	-	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.

Julian F. Santos
Public Arbitrator, Presiding Chairperson

Signature Date



Richard A. Dice, Esq.
Public Arbitrator

5-14-04

Signature Date

Patrick J. Howley, Esq.
Non-Public Arbitrator

Signature Date

May 21, 2004
Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

Julian F. Santos
Richard A. Dice, Esq.
Patrick J. Howley, Esq.

Public Arbitrator, Presiding Chair
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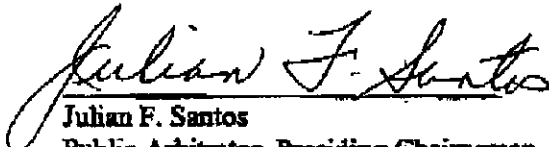
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Richard A. Dice, Esq.	-	Public Arbitrator
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Julian F. Santos
Public Arbitrator, Presiding Chairperson

5/17/04
Signature Date

Richard A. Dice, Esq.
Public Arbitrator

Signature Date

Patrick J. Howley, Esq.
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Signature Date

May 21, 2004
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