

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Paul Ehrenstein and Paul Ehrenstein Associates, Inc. (Claimants) v. Laconia Capital Corporation, Mike Franzese, and Armstrong Asset Management Group, Inc. (Respondents)

Case Number: 03-01898

Hearing Site: New York, New York

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

REPRESENTATION OF PARTIES

Claimants Paul Ehrenstein ("Ehrenstein") and Paul Ehrenstein Associates, Inc. ("PEA") hereinafter collectively referred to as "Claimants" appeared *pro se* through Ehrenstein, New York, NY.

Respondents Laconia Capital Corporation ("LCC") and Michael Franzese ("Franzese") appeared *pro se* through Franzese, New York, NY.

Respondent Armstrong Asset Management Group, Inc. ("Armstrong") did not make an appearance in this matter.

CASE INFORMATION

Statement of Claim filed on or about: March 12, 2003.

Claimants each signed the Uniform Submission Agreement: March 12, 2003.

Joint Statement of Answer and Request for Dismissal filed by LCC and Franzese on or about: November 5, 2003.

LCC did not sign a Uniform Submission Agreement.

Franzese did not sign a Uniform Submission Agreement.

Armstrong did not file a Statement of Answer or sign a Uniform Submission Agreement.

CASE SUMMARY

Claimants asserted the following cause of action: failure to pay for services rendered.

Unless specifically admitted in their Answer, LCC and Franzese denied the allegations made in the Statement of Claim.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$6,759.29, plus the costs associated with the arbitration proceeding, and punitive damages in the amount of \$3,240.70.

During the hearing, Claimants amended the Statement of Claim to include, in addition to compensatory damages in the amount of \$6,759.29, costs, and punitive damages in the amount of \$3,240.70, specified costs of \$4,075.00 for arbitration preparation, time lost and filing costs and additional compensatory damages of \$750.00. Claimants requested damages of \$14,824.99.

LCC and Franzese requested dismissal of the Statement of Claim.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents LCC and Franzese did not file with NASD Dispute Resolution a properly executed Uniform Submission Agreement 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 Arbitrator on all issues submitted.

Respondent Armstrong Asset Management Group, Inc. is not a member of NASD and, therefore, was not required to arbitrate in this forum. Armstrong Asset Management Group, Inc did not submit to the jurisdiction of NASD Dispute Resolution.

During the hearing, Claimants amended the Statement of Claim to increase the amount of damages to \$14,824.99.

During the hearing, Respondents moved for summary dismissal, which was denied.

During the hearing, Respondents requested that individual Respondent Franzese be removed from the Statement of Claim, which was denied.

AWARD

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

1. Respondents are jointly and severally liable for and shall pay Claimants compensatory damages in the amount of \$6,759.29.
2. 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 = \$125.00

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 persons at the time of the events giving rise to the dispute. Accordingly, Laconia Capital Corporation is a party.

Member surcharge = \$425.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

November 17, 2003, adjournment by LCC and Franzese = Waived

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: October 28, 2003 1 session

Two (2) Hearing sessions @ \$450.00 = \$900.00

Hearing Date: November 25, 2003 2 sessions

Total Forum Fees = \$1,350.00

1. The Arbitrator has assessed \$675.00 of the forum fees jointly and severally against Claimants.
2. The Arbitrator has assessed \$675.00 of the forum fees jointly and severally against Respondents.

Fee Summary

1. Claimants are jointly and severally liable for:

| | |
|-------------------------------------|-------------|
| Initial Filing Fee | = \$ 125.00 |
| <u>Forum Fees</u> | = \$ 675.00 |
| Total Fees | = \$ 800.00 |
| <u>Less payments</u> | = \$ 325.00 |
| Balance Due NASD Dispute Resolution | = \$ 475.00 |

2. LCC is solely liable for:

| | |
|-------------------------------------|-------------|
| Member Fees | = \$ 425.00 |
| Total Fees | = \$ 425.00 |
| <u>Less payments</u> | = \$ 425.00 |
| Balance Due NASD Dispute Resolution | = \$ 0.00 |

3. LCC and Franzese are jointly and severally liable for:

| | |
|-------------------------------------|-------------|
| <u>Forum Fees</u> | = \$ 675.00 |
| Total Fees | = \$ 675.00 |
| <u>Less payments</u> | = \$ 650.00 |
| Balance Due NASD Dispute Resolution | = \$ 25.00 |

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

ARBITRATOR

Mary A. Dubas

- Non-Public Arbitrator, Presiding Chair

Arbitrator's Signature

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.



Mary A. Dubas
Non-Public Arbitrator, Presiding Chairperson

1/7/04
Signature Date

January 8, 2004

Date of Service (For NASD Dispute Resolution use only)