

**Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Lawrence E. Palme, Claimant v. Fortress Financial Group, LLC, Respondent

Case Number: 03-02128

Hearing Site: Los Angeles, California

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**REPRESENTATION OF PARTIES**

For Claimant:

Sandra L. Malek, Esq.  
Malek & Malek  
Torrance, California

For Respondent:

Gregory D. Walker  
Chief Executive Officer  
Fortress Financial Group  
Isle of Palms, South Carolina

**CASE INFORMATION**

Statement of Claim filed: March 24, 2003

Amended Statement of Claim filed: March 31, 2003

Claimant's Uniform Submission Agreement signed: March 20, 2003

**CASE SUMMARY**

Claimant alleged that Respondent placed derogatory language on Claimant's Form U-5.

Gregory D. Walker, Respondent's Chief Executive Officer, filed a declaration dated May 23, 2003 indicating that the company would not respond to Claimant's Statement of Claim, but that Respondent agreed with the relief sought by Claimant and urged NASD to remove the derogatory statement placed on Claimant's Form U-5 by Respondent.

### **RELIEF REQUESTED**

Claimant requested interim injunctive relief pursuant to NASD's Code of Arbitration Procedure ("the Code") Rule 10335 and expungement of derogatory language filed on Claimant's Form U-5.

Respondent agreed with and stipulated to Claimant's request for expungement of the derogatory language placed on Claimant's Form U-5.

### **OTHER ISSUES CONSIDERED AND DECIDED**

On March 31, 2003, Claimant filed an Amended Statement of Claim pursuant to the Code Rule 10328(a). The Amended Statement of Claim withdrew Claimant's claim for injunctive relief.

On March 20, 2003, Claimant and Claimant's counsel Sandra L. Malek signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

On May 23, 2003, Gregory D. Walker, Respondent's Chief Executive Officer, signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

Respondent did not file with the NASD Dispute Resolution a properly executed submission agreement but is required to submit to arbitration pursuant to the Code and having submitted a declaration in response to the claim, is bound by the determination of the Arbitrator on all issues submitted.

Claimant waived his right to an in person hearing session and requested from the Arbitrator a telephonic hearing. The Arbitrator granted Claimant's request.

### **AWARD**

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

- 1) Based on the defamatory nature of the information in NASD's Central Registration Depository ("CRD") system, Respondent and/or CRD shall amend Claimant's Form U-5 section entitled, "Reason for and Explanation of Termination" as follows:
  - a) Delete "Reason for Termination - Other\*" and add "Reason for Termination - Voluntary."
  - b) Delete the following language: "SUBMITTED RESIGNATION AND ENTERED OVER 30 LEADS INTO SYSTEM THAT [sic] HAD BEEN TAKEN FROM "DO-NOT-CALL-LIST" EXPOSING FORTRESS FINANCIAL [sic] GOUP [sic] TO NASD VIOLATIONS / FINES. THIS ACT WAS WITH MALICIOUS [sic] INTENT! DISHONESTY!"
- 2) All other relief requested and not expressly granted is denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 250.00
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#### **Forum Fees and Assessments**

The Arbitrator assessed forum fees for each session conducted. A session is any meeting between the parties and the Arbitrator, including a pre-hearing conference, that lasts four (4) hours or less. The following fees are assessed:

(1) Hearing session @ \$450.00/session	= \$ 450.00
Hearing: June 17, 2003	1 session

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<b>Total Forum Fees</b>	<b>= \$ 450.00</b>
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The Arbitrator waived \$ 450.00 of the forum fees.

**Administrative Costs**

Administrative costs are expenses incurred because a party requested additional services beyond the normal administrative services. These additional services include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, security, and sundry other requests.

Claimant Lawrence E. Palme requested audio transcripts: = \$ 15.00

**Fee Summary**

Claimant is charged with the following fees and costs:

Initial Filing Fee	= \$ 250.00
<u>Administrative Costs</u>	<u>= \$ 15.00</u>
Total Fees	= \$ 265.00
<u>Less payments</u>	<u>= \$(1,500.00)</u>
<b>Refund Due Claimant</b>	<b>= \$(1,235.00)</b>


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

**ARBITRATION PANEL**

Robert Taylor

Non-Public, Presiding Chair

**Arbitrator Signature**

  
Robert Taylor  
Chair, Non-Public Arbitrator

6/27/03  
Signature Date

June 27, 2003  
Date of Service