

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

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In the Matter of the Arbitration Between:

Victoria Moran (Claimant) v. Citibank, N.A. (Respondent)

Case Number: 03-02155

Hearing Site: New York, New York

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

**REPRESENTATION OF PARTIES**

Claimant Victoria Moran ("Moran") hereinafter referred to as "Claimant" appeared *pro se*.

Respondent Citibank, N.A. ("Citibank") hereinafter referred to as "Respondent": Ira G. Rosenstein, Esq., Orrick, Herrington & Sutcliffe, New York, NY. Previously represented by: Nancy L. Sommer, Esq., Citibank, N.A., New York, NY.

**CASE INFORMATION**

Statement of Claim filed on or about: March 24, 2003.

Response to Respondent's Answer and Counterclaim filed on or about: August 11, 2003.

Claimant signed the Uniform Submission Agreement: July 10, 2003.

Statement of Answer and Counterclaim filed by Respondent on or about: July 29, 2003.

Respondent signed the Uniform Submission Agreement: July 29, 2003.

**CASE SUMMARY**

Claimant asserted the following causes of action: breach of contract and failure to pay compensation owed. In her Response to the Respondent's Statement of Answer and Counterclaim, Claimant denied the allegations in the Statement of Answer and Counterclaim.

Unless specifically admitted in its Answer and Counterclaim, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses. In its Counterclaim, Respondent asserted the following cause of action: failure to repay monies owed pursuant to the terms of a promissory note.

**RELIEF REQUESTED**

Claimant requested compensatory damages in the amount of \$76,139.17 plus interest,

attorneys' fees, and such other and further relief as is just, proper, and equitable. In her Response to Respondent's Answer and Counterclaim, Claimant reaffirmed her Statement of Claim and requested that an award be entered against Respondent in the amount of \$100,000.00 as punitive damages for its assertion and pursuit of the two meritless counterclaims; and requested that Claimant be granted such other and further relief as is just, proper, and equitable.

Respondent requested that the Statement of Claim be dismissed in all respects; that an award be entered against Claimant on its First Counterclaim in the amount of \$66,666.66, plus interest at the rate of 4.5% per annum through the date of the award; that an award be entered against Claimant on its Second Counterclaim in an amount not less than \$27,400.00, plus interest; costs of collection including, but not limited to, all filing fees, arbitration costs, and attorneys' fees; and such other and further relief as is just, proper, and equitable.

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

At the hearing, Respondent withdrew its Counterclaims.

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. Respondent's counterclaims 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	= \$300.00
Counterclaim filing fee	= \$225.00

**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 @ \$1,125.00 = \$1,125.00  
Pre-hearing conference: November 21, 2003 1 session

One (1) Hearing sessions @ \$1,125.00 = \$1,125.00

Hearing Date: May 3, 2004 2 sessions

Total Forum Fees = \$2,250.00

1. The Panel has assessed \$1,125.00 of the forum fees against Claimant.
2. The Panel has assessed \$1,125.00 of the forum fees against Respondent.

**Fee Summary**

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$1,125.00
Total Fees	= \$1,425.00
Less payments	= \$ 975.00
Balance Due NASD Dispute Resolution	= \$ 450.00

2. Respondent is solely liable for:

Counterclaim Filing Fee	= \$ 225.00
Forum Fees	= \$1,125.00
Total Fees	= \$1,350.00
Less payments	= \$2,675.00
Refund Due to Respondent	= \$1,325.00

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

**ARBITRATION PANEL**

Alice J. Dutton  
John A. Borgese, Esq.  
Judith E. Gross, Esq.

- Non-Public Arbitrator, Presiding Chair  
- Non-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.

\_\_\_\_\_  
Alice J. Dutton  
Non-Public Arbitrator, Presiding Chairperson

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
John A. Borgese, Esq.  
Non-Public Arbitrator

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5/14/04  
Signature Date

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Judith E. Gross, Esq.  
Non-Public Arbitrator

\_\_\_\_\_  
Signature Date

May 17, 2004

\_\_\_\_\_  
Date of Service (For NASD Dispute Resolution use only)

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John A. Borgese, Esq.	-	Non-Public Arbitrator
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NASD Dispute Resolution  
Arbitration No. 03-02155  
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