

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Thomas A. Burns, III (Claimant) v. Gotham Trading Group, LLC (Respondent)

Case Number: 03-02500

Hearing Site: New York, New York

Nature of the Dispute: Associated Person vs. Member.

REPRESENTATION OF PARTIES

Claimant Thomas A. Burns, III ("Burns") hereinafter referred to as "Claimant" appeared *pro se*.

Respondent Gotham Trading Group, LLC ("Gotham") hereinafter referred to as "Respondent": Gary Dear, Managing Member, Gotham Trading Group, LLC, New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: April 3, 2003.

Amended Statement of Claim filed on or about: October 29, 2003.

Claimant signed the Uniform Submission Agreement: April 3, 2003.

Statement of Answer filed by Respondent on or about: November 28, 2003.

Respondent did not sign the Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: failure to distribute his capital account balance; failure to release IRA account; and failure to repay monies owed to him. In the Amended Statement of Claim, Claimant asserted the following causes of action: failure to distribute his capital account balance; and failure to repay monies owed to him.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$131,432.00, plus interest; compensatory damages in the amount of \$37,297.27, plus interest; and an award of fees and costs incurred in this matter. In the Amended Statement of Claim, Claimant requested compensatory damages in the amount of \$131,432.00, plus interest; and an award of fees and costs incurred in this matter.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent 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, and appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

At the hearing, Respondent, in an attempt to support his claim, requested a recess in order to secure documents. A recess was given during the hearing for this purpose. Respondent was allowed to submit the documents he obtained during the recess.

At the hearing, Claimant made an oral amendment that the claims regarding his IRA account were no longer a subject of dispute. The IRA claim was stipulated released by both Claimant and Respondent.

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. Respondent is liable for and shall pay to Claimant compensatory damages in the amount of \$129,556.00.
2. Any and all relief not specifically addressed herein 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

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 person at the time of the events giving rise to the dispute. Accordingly, Gotham Trading Group, LLC is a party.

Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$2,750.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

November 13, 2003, adjournment by Respondent	= \$1,125.00
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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:

Three (3) Pre-hearing sessions with Panel @ \$1,125.00 = \$3,375.00

Pre-hearing conferences:	September 22, 2003	1 session
	October 20, 2003	1 session
	October 30, 2003	1 session

One (2) Hearing sessions @ \$1,125.00 = \$2,250.00

Hearing Date: January 12, 2004 2 sessions

Total Forum Fees = \$5,625.00

1. The Panel assessed forum fees totaling \$5,625.00 against Respondent.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 300.00
Total Fees	= \$ 300.00
Less payments	= \$ 1,425.00
Refund Due to Claimant	= \$ 1,125.00

2. Respondent is solely liable for:

Member Fees	= \$ 5,200.00
Adjournment Fee	= \$ 1,125.00
Forum Fees	= \$ 5,625.00
Total Fees	= \$11,950.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$11,950.00

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

ARBITRATION PANEL

Ilyse Roberta Levison	-	Public Arbitrator, Presiding Chair
Brenna L. Stewart, Esq.	-	Public Arbitrator
Patrick J. O'Neil	-	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.

Ilyse Roberta Levison
Ilyse Roberta Levison
Public Arbitrator, Presiding Chairperson

1/31/04
Signature Date

Brenna L. Stewart, Esq.
Brenna L. Stewart, Esq.
Public Arbitrator

Signature Date

Patrick J. O'Neil
Patrick J. O'Neil
Non-Public Arbitrator

Signature Date

February 4, 2004

Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL


Ilyse Roberta Levison	-	Public Arbitrator, Presiding Chair
Brenna L. Stewart, Esq.	-	Public Arbitrator
Patrick J. O'Neil	-	Non-Public Arbitrator

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Ilyse Roberta Levison
Public Arbitrator, Presiding Chairperson

Signature Date



Brenna L. Stewart, Esq.
Public Arbitrator

1-29-04

Signature Date

Patrick J. O'Neil
Non-Public Arbitrator

Signature Date

February 4, 2004

Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

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Ilyse Roberta Levison
Public Arbitrator, Presiding Chairperson

Signature Date

Brenna L. Stewart, Esq.
Public Arbitrator

Signature Date



Patrick J. O'Neil
Non-Public Arbitrator

01/30/04

Signature Date

February 4, 2004

Date of Service (For NASD Dispute Resolution use only)