

Award
NASD Dispute Resolution

COPY

In the Matter of the Arbitration Between:

D.A. Davidson & Co., Claimant v. Kenneth J. Galimanis, Respondent

Case Number: 03-02674

Hearing Site: Seattle, Washington

Nature of the Dispute: Member Firm v. Associated Person

REPRESENTATION OF PARTIES

For Claimant:

Andrew F. Rigel, Esq.
Lane Powell Spears Lubersky LLP
Seattle, Washington

For Respondent:

Kenneth J. Galimanis
In Pro Per
Seattle, Washington

CASE INFORMATION

Statement of Claim filed: April 10, 2003

Amended Statement of Claimant filed: May 11, 2003

Claimant's Uniform Submission Agreement signed: May 5, 2003

Statement of Answer filed by Respondent Kenneth J. Galimanis: Not filed

Respondent Kenneth J. Galimanis' Uniform Submission Agreement signed: Not signed

CASE SUMMARY

Claimant's Statement of Claim and Amended Statement of Claim alleged that Respondent Kenneth J. Galimanis failed to pay balance due on a promissory note.

RELIEF REQUESTED

Claimant's Statement of Claim and Amended Statement of Claim requested compensatory damages in the amount of \$195,000.00, unspecified interest, and costs, including attorney's fees.

OTHER ISSUES CONSIDERED AND DECIDED

Claimant's Amended Statement of Claim was filed prior to service of the initial Statement of Claim. Staff served only the Amended Statement of Claim on Respondent Kenneth J. Galimanis. On July 28, 2003, Claimant moved the Panel, pursuant to NASD Code of Arbitration Procedure 10314(e) to enter an Order of Default and Award Claimant the relief request in the Amended Statement of Claim. On November 5, 2003, the initial pre-hearing telephonic conference in this matter was held. In attendance were the Claimant and the Arbitration Panel. During this call the Panel considered Claimant's Motion for Default. After due deliberation, the Panel reserved judgment on the Motion for Default and asked Claimant to submit additional briefing on the amount of damages being requested and also requested that the Claimant provide proof of personal service of the Amended Statement of Claim and the Motion for Default. The Panel set another telephonic hearing for January 12, 2004 to consider Claimant's submissions.

On January 12, 2004, the telephonic hearing in this matter was held. In attendance were the Claimant and the Arbitration Panel. After due deliberation and consideration of Claimant's submissions, the Panel granted Claimant's Motion for Default. The panel, however, requested post-hearing briefing on Claimant's request for attorney's fees.

The Claimant 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, evidence presented at the hearing, and post-hearing submissions, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondent Kenneth J. Galimanis is liable to and shall pay Claimant the sum of \$195,000.00 in compensatory damages.
- 2) Respondent Kenneth J. Galimanis is liable to and shall pay Claimant interest in the amount of 5.87% per annum on \$195,000.00 from December 20, 2000, until the date that payment of this Award is made in full.
- 3) Respondent Kenneth J. Galimanis is liable to and shall pay Claimant the sum of \$4,229.35 in attorney's fees pursuant to the employment contract entered into by the Claimant and Respondent.
- 4) Except as noted above, the parties shall bear their respective costs.
- 5) 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	= \$ 1,000.00
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Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm D.A. Davidson & Co. is a party and the following fees are assessed:

Member Surcharge	= \$ 1,700.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$ 2,750.00</u>
Total Member Fees	= \$ 5,200.00

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair or the parties and the Panel. The following fees are assessed:

One (1) Pre-hearing conference session with the Panel @ \$1,125.00/session	= \$ 1,125.00
Pre-hearing conferences: November 5, 2003 1 session	

One (1) Hearing session @ \$1,125.00/session	= \$ 1,125.00
Hearings: January 12, 2004 1 session	

Total Forum Fees	= \$ 2,250.00
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The Panel assessed \$2,250.00 of the forum fee to Respondent Kenneth J. Galimanis.

Fee Summary

1. Claimant D.A. Davidson & Co. is charged with the following fees and costs:

Initial Filing Fee	= \$ 1,000.00
<u>Member Fees</u>	= \$ 5,200.00
Total Fees	= \$ 6,200.00
<u>Less payments</u>	= \$ (7,325.00)
Refund Due Claimant	= \$ (1,125.00)

2. Respondent Kenneth J. Galimanis is charged with the following fees and costs:

Forum Fees	= \$ 2,250.00
<u>Less payments</u>	= \$ (0.00)
Balance Due NASD Dispute Resolution	= \$ 2,250.00

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

Joseph L. Mangan
Robert W. Pillitteri
Robert Lewis Brown

- **Non-Public Arbitrator, Presiding Chair**
- **Non-Public Arbitrator**
- **Non-Public Arbitrator**

Concurring Arbitrators' Signatures


JOSEPH L. MANGAN
Non-Public Arbitrator, Presiding Chair

2/10/04
Signature Date

ROBERT W. PILLITTERI
Non-Public Arbitrator

Signature Date

ROBERT LEWIS BROWN
Non-Public Arbitrator

Signature Date

February 10, 2004
Date of Service

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