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

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In the Matter of the Arbitration Between:

Name of the Claimant

James Chris Mills, an individual

Case Number: 03-03356

Names of the Respondents

First Heritage Corporation, a Florida corporation  
First Heritage Global, Ltd., a New York corporation  
Jacob Feldman, an individual

Hearing Site: Boca Raton, Florida

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Nature of the Dispute: Associated Person vs. Member and Associated Person.

**REPRESENTATION OF PARTIES**

For James Chris Mills, an individual, hereinafter referred to as "Claimant": Laura Anthony, Esq., Legal & Compliance, LLC, West Palm Beach, Florida.

For First Heritage Corporation, a Florida corporation ("FHC"), First Heritage Global, Ltd., a New York corporation ("FHG") and Jacob Feldman, an individual ("Feldman"), hereinafter collectively referred to as "Respondents": Joseph Mays, New York, New York, appeared as their representative.

**CASE INFORMATION**

Statement of Claim filed on or about: May 2, 2003.

Claimant signed the Uniform Submission Agreement: April 29, 2003.

Statement of Answer filed by Respondents on or about: July 21, 2003.

Respondent FHC signed the Uniform Submission Agreement: July 21, 2003.

Respondent FHG signed the Uniform Submission Agreement: July 21, 2003.

Respondent Feldman signed the Uniform Submission Agreement: July 21, 2003.

**CASE SUMMARY**

Claimant asserted the following causes of action: 1) breach of contract; 2) breach of fiduciary duty; 3) fraud; 4) unjust enrichment; and, 5) slander. The causes of action relate to an agreement to purchase an ownership interest in First Heritage Corporation.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

**RELIEF REQUESTED**

Claimant requested past due compensation, wages and commissions in the amount of \$14,292.00,

reimbursement of expenses in the amount of \$25,505.00, refund of good-faith deposit in the amount of \$25,000.00, attorney's fees pursuant to Florida Statutes, Section 57.105 as determined by a court of appropriate jurisdiction, prejudgment interest, costs, including, but not limited to expert witness fees, filing fees and forum fees, injunctive relief, amendment of Form U-5 record maintained by the NASD Central Registration Depository (the "CRD") and such other and further relief as the Panel deemed fair and just.

Respondents requested that the Statement of Claim be dismissed in its entirety, that they be awarded their attorney's fees pursuant to Florida Statutes, Chapter 57.105 as determined by a court of appropriate jurisdiction, costs, including, but not limited to expert witness fees, filing fees, forum fees and out of pocket expenses and such other relief as the Panel deemed fair and just.

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

Claimant named a non-member of NASD in his Statement of Claim. Said non-member declined to submit to the jurisdiction of NASD.

On May 6, 2004, the parties advised NASD Dispute Resolution that they had settled this matter and submitted a proposed Stipulated Award with a request for amendment of Claimant's Form U-5 maintained by NASD CRD.

The parties have agreed that the Stipulated Award in this matter may be entered in counterpart copies or that a signed handwritten Stipulated Award may be entered.

### **AWARD**

After considering the pleadings and the proposed Stipulated Award with request for amendment of Claimant's NASD CRD Form U-5, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondents Feldman, FHC and FHG grant Claimant full and irrevocable power to sell all of the shares and all of the assets of Respondent FSC. All assets will be sold, including both tangible and intangible assets, such as accounts receivable, good will, licenses, information, equipment, contracts and all other assets.
- 2) Claimant is fully authorized to take any and all actions deemed necessary or appropriate in his sole discretion to sell FHC, including, but not limited to, seeking prospective buyers, selecting the buyer(s), negotiating and setting the terms and sales price, retaining a broker if necessary, and taking any other steps to sell all of the shares and assets of FHC.
- 3) Respondent Feldman is responsible for and will promptly pay all liabilities and expenses of FHC and FHG, including expenses incurred in the sale of the corporation, up until the time the sale is finalized. Respondent Feldman is not responsible for any business broker's fees.
- 4) Claimant will keep all of the proceeds of the sale of FHC after business broker's fees, if any, are paid. Respondent Feldman is responsible for all other costs incurred in the sale.
- 5) Respondent Feldman will promptly execute all documents needed to effectuate this settlement and the sale of FHC.
- 6) Respondent Feldman will promptly provide any documents needed to complete the sale of FHC,

including, but not limited to, documents required for a due diligence investigation in connection with the sale.

- 7) Upon completion of the sale of FHC, Claimant will receive the net capital deposit in the amount of \$5,000.00, plus any and all other funds deposited with the clearing firm. Respondent Feldman will execute any and all documents needed to release said funds to Claimant.
- 8) If Respondents fail to promptly and fully comply with this settlement, upon the filing of an affidavit with NASD by Claimant setting forth Respondents' failure to promptly comply, this settlement will immediately and automatically convert to a judgment against Respondents, jointly and severally, for all damages set forth in Claimant's Statement of Claim including \$14,292.00 for commissions, \$26,505.00 for expenses, \$25,000.00 for his deposit, past due compensation and wages, attorney's fees, prejudgment interest, costs, plus punitive damages and \$10,000.00 in liquidated damages for Respondents' non-compliance.
- 9) If, for any reason, FHC cannot be sold, upon the filing of an affidavit with NASD by Claimant, this settlement will immediately and automatically convert to a judgment against Respondents, jointly and severally, according to the terms set forth in paragraph 8 above.
- 10) The Panel recommends the expungement of the internal review disclosure as reported on Claimant Mill's Form U-5 filed by Respondent First Heritage Corporation on March 31, 2003, any U-5 amendments updating the initial disclosure, and any other references to the internal review disclosure contained in Claimant's CRD record. In addition, the answer to question 7B on the First Heritage Corporation U-5 filing and any subsequent U-5 amendment filings should be changed from "yes" to "no". Further, NASD CRD is ordered to expunge any references to the First Heritage Corporation termination contained in Claimant's CRD record and/or reported by Claimant on any of his Form U-4 filing submissions. The reason for termination as reported on the March 31, 2003 Form U-5 submitted by First Heritage Corporation ("discharged") and accompanying reason for termination explanation ("Mr. Mills was fired") should also be expunged. The reason for termination that should appear on the First Heritage Corporation Form U-5 filing is "voluntary". The expungement recommendations are based on the defamatory nature of the information contained in Mr. Mill's CRD record.

### **FEES**

Pursuant to the NASD Code of Arbitration Procedure (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	= \$225.00
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#### **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, Respondent FHC is a party to this dispute and was a member of NASD at the time the following fees were assessed:

Member surcharge	= \$1,100.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$1,700.00

**Adjournment Fees**

No requests for adjournments were filed in this matter.

**Injunctive Relief Fees**

No injunctive relief fees were incurred during this proceeding.

**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:

Two (2) Pre-hearing sessions with a single arbitrator @ \$450.00	= \$ 900.00
Pre-hearing conferences:     March 3, 2004             1 session	
March 24, 2003             1 session	
One (1) Pre-hearing session with the Panel @ \$750.00	= \$ 750.00
Pre-hearing conference:     February 23, 2004	
Total Forum Fees	= \$ 1,650.00

The Panel has assessed \$825.00 of the forum fees to Claimant.

The Panel has assessed \$825.00 of the forum fees jointly and severally to Respondents.

**Administrative Costs**

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred during this proceeding.

**Fee Summary**

Claimant is solely liable for:

Initial Filing Fee	= \$ 225.00
Forum Fees	= \$ 825.00
Total Fees	= \$ 1,050.00
Less payments	= \$ 1,012.50
Balance Due NASD Dispute Resolution	= \$ 37.50

Respondent First Heritage is solely liable for:

Member Fees	= \$ 3,550.00
Total Fees	= \$ 3,550.00
Less payments	= \$ 1,737.51
Balance Due NASD Dispute Resolution	= \$ 1,812.49

**Respondents are jointly and severally liable for:**

Forum Fees	= \$	825.00
Total Fees	= \$	825.00
Less payments	= \$	0.00
Balance Due NASD Dispute Resolution	= \$	825.00

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

## ARBITRATION PANEL

<i>Burt R. Rose</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Michael A. Levin, Esq.</i>	-	<i>Public Arbitrator</i>
<i>Kathy Klock, Esq.</i>	-	<i>Non-Public Arbitrator</i>

### **Concurring Arbitrators' Signatures**

/s/  
Burt R. Rose  
Public Arbitrator, Presiding Chairperson

05/19/04  
Signature Date

/s/  
Michael A. Levin, Esq.  
Public Arbitrator

05/17/04  
Signature Date

/s/  
Kathy Klock, Esq.  
Non-Public Arbitrator

06/16/04  
Signature Date

06/17/04  
Date of Service (For NASD Dispute Resolution office use only)

Respondents are jointly and severally liable for:

<u>Forum Fees</u>	= \$ 825.00
<u>Total Fees</u>	= \$ 825.00
<u>Less payments</u>	= \$ 0.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 825.00

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<i>Michael A. Levin, Esq.</i>	-	<i>Public Arbitrator</i>
<i>Kathy Klock, Esq.</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures



Burt R. Rose  
Public Arbitrator, Presiding Chairperson



Signature Date

\_\_\_\_\_  
Michael A. Levin, Esq.  
Public Arbitrator

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

\_\_\_\_\_  
Kathy Klock, Esq.  
Non-Public Arbitrator

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NASD Dispute Resolution  
Arbitration No. 03-03356  
Stipulated Award Page 5

Respondents are jointly and severally liable for:

Forum Fees	= \$ 825.00
Total Fees	= \$ 825.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 825.00

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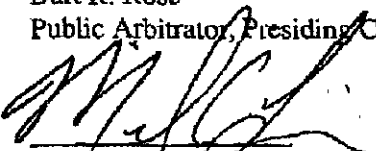
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Burt R. Rose  
Public Arbitrator, Presiding Chairperson

Signature Date

  
Michael A. Levin, Esq.  
Public Arbitrator

5-17-04  
Signature Date

Kathy Klock, Esq.  
Non-Public Arbitrator

Signature Date

Date of Service (For NASD Dispute Resolution office use only)

No. 8352

P. 2

NASD Dispute Resolution  
Arbitration No. 03-C3356  
Settled Award Page 5

Respondents are jointly and severally liable for:

Forum Fees	= \$ 825.00
Total Fees	= \$ 825.00
Less Payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 825.00

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**ARBITRATION PANEL**

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Michael A. Levin, Esq.	-	Public Arbitrator
Kathy Kreck, Esq.	-	Non-Public Arbitrator

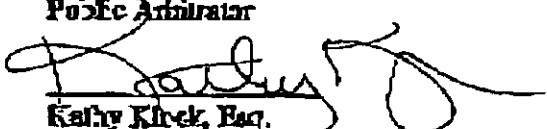
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Burt R. Rose  
Public Arbitrator, Presiding Chairperson

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Signature Date

\_\_\_\_\_  
Michael A. Levin, Esq.  
Public Arbitrator

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

  
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Kathy Kreck, Esq.  
Non-Public Arbitrator

6-15-04  
\_\_\_\_\_  
Signature Date

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Date of Service (For NASD Dispute Resolution office use only)

NASD

Jun-15-2004 11:49AM

TruSteel Martin & Davis Date 06/15/04

Received Jun-15-04 12:10pm