
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Edgar De Sola

Case Number: 03-03359

Names of the Respondents
Legg Mason Wood Walker, Inc.
James Cosmides

Hearing Site: Orlando, Florida

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

REPRESENTATION OF PARTIES

For Edgar De Sola, hereinafter referred to as "Claimant": Brandon S. Peters, Esq., Morgan, Colling & Gilbert, P.A., Orlando, Florida.

For Legg Mason Wood Walker, Inc., hereinafter referred to as "Respondent LMWW": Jason W. Gaarder, Associate General Counsel with Respondent LMWW, Baltimore, Maryland.

For James Cosmides, hereinafter referred to as "Respondent Cosmides": Jason W. Gaarder, Associate General Counsel with Respondent LMWW, Baltimore, Maryland. On or about April 7, 2004, Maya M. Wolfe, Esq., Fowler White Boggs Banker, P.A., Tampa, Florida, substituted as counsel for Respondent Cosmides.

CASE INFORMATION

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

Amended Statement of Claim filed on or about: May 19, 2003.

Claimant signed the Uniform Submission Agreement on: April 27, 2003.

Statement of Answer and Counterclaim filed by Respondents on or about: July 16, 2003.

Respondent LMWW signed the Uniform Submission Agreement on: July 16, 2003.

Respondent Cosmides did not file an executed Uniform Submission Agreement.

Statement of Answer to Counterclaim filed by Claimant on or about: July 24, 2003.

CASE SUMMARY

Claimant alleged the following causes of action: 1) breach of oral contract; 2) promissory estoppel; and 3) negligent misrepresentation. The causes of action relate to Claimant's resignation of employment with PaineWebber, acceptance of employment with Respondent LMWW and termination of employment with Respondent LMWW.

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

RELIEF REQUESTED

Claimant requested: 1) compensatory damages between \$500,000.00 and \$1,000,000.00 for loss of income, loss of ability to earn income in the future and damage to professional reputation; 2) interest; 3) costs; 3) attorneys' fees; 4) dismissal of the Counterclaim; and 5) attorneys' fees and litigation costs in defense of the Counterclaim.

Respondents requested in their Statement of Answer: 1) dismissal of the Statement of Claim in its entirety; 2) costs and expenses; and 3) such other relief the Panel deemed just and proper.

Respondent LMWW requested in its Counterclaim: 1) reimbursement for legal fees in the amount of \$26,126.49 incurred by Respondent LMWW to compel arbitration and for Claimant's failure to arbitrate any potential claims against Respondent LMWW; 2) interest at the statutory rate through the date of any award; 3) attorneys' fees; 4) costs and expenses; and 5) such other relief the Panel deemed just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

On or about March 12, 2004, Respondents filed their Brief and Motion to Dismiss. On or about March 17, 2004, Claimant filed his Response and Opposition to Respondents' Brief and Motion to Dismiss. On or about March 22, 2004, the Panel denied Respondents' motion.

On or about September 27, 2004, Claimant and Respondent Cosmides filed their Joint Stipulation of Voluntary Dismissal of James Cosmides wherein these parties agreed to dismissal, without prejudice, of the claims between them.

At the conclusion of Claimant's case-in-chief, Respondent LMWW moved to dismiss Claimant's claims. The Panel denied the motion.

The parties 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, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), 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 LMWW's counterclaims are denied in their entirety.
3. Respondent LMWW's requests for attorneys' fees, costs and expenses are denied.
4. Any and all claims or relief not specifically addressed herein are denied.

FEES

Pursuant to the NASD Code of Arbitration Procedure (the "Code"), the following fees are assessed:

Filing Fees

NASD will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$ 375.00
Counterclaim filing fee	= \$1,000.00

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, Respondent LMWW is a member firm and a party.

Member surcharge	= \$2,250.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$4,000.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

On or about April 7, 2004, Respondent Cosmides filed his Appearance of New Counsel for James Cosmides and Emergency Motion to Adjourn. On or about April 7, 2004, Claimant filed his opposition to the motion. On or about April 7, 2004, Respondent LMWW filed its response and consent to the motion. On or about April 7, 2004, Respondent Cosmides filed his Reply in Support of James Cosmides' Emergency Motion to Adjourn. On or about April 8, 2004, Claimant filed his sur-reply and opposition to the motion. On or about April 8, 2004, the Panel granted the motion, adjourned the evidentiary hearing scheduled for April 14 - 16, 2004, denied the request to waive the adjournment fee, and assessed the adjournment fee of \$1,200.00 to Claimant.

Three-Day Cancellation Fees

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session:

There were no three-day cancellation fees assessed during these proceedings.

Injunctive Relief Fees

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the panel.

There were no injunctive relief fees assessed during these proceedings.

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 @ \$1,200.00 per session	= \$1,200.00
Pre-hearing conference: December 1, 2003 1 session	
Four (4) Hearing sessions @ \$1,200.00 per session	= \$4,800.00
Hearing Dates: October 13, 2004 2 sessions	
October 14, 2004 2 sessions	
<hr/>	
Total Forum Fees	= \$6,000.00

The Panel has assessed forum fees in the amount of \$3,000.00 to Claimant.

The Panel has assessed forum fees in the amount of \$3,000.00 to Respondent LMWW.

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.

There were no administrative costs incurred during these proceedings.

Fee Summary

Claimant is solely liable for:

Initial Filing Fee	= \$ 375.00
Adjournment Fee	= \$1,200.00
<u>Forum Fees</u>	<u>= \$3,000.00</u>
Total Fees	= \$4,575.00
<u>Less payments</u>	<u>= \$2,775.00</u>
Balance Due NASD Dispute Resolution	= \$1,800.00

Respondent LMWW is solely liable for:

Counterclaim Filing Fee	= \$ 1,000.00
Member Fees	= \$ 7,000.00
<u>Forum Fees</u>	<u>= \$ 3,000.00</u>
Total Fees	= \$11,000.00
<u>Less payments</u>	<u>= \$ 8,450.00</u>
Balance Due NASD Dispute Resolution	= \$ 2,550.00

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

ARBITRATION PANEL

<i>Stan West</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Beverly S. Gordon, Esq.</i>	-	<i>Public Arbitrator</i>
<i>Linda Fairchild</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

 /s/
Stan West
Public Arbitrator, Presiding Chairperson

November 2, 2004
Signature Date

 /s/
Beverly S. Gordon, Esq.
Public Arbitrator

November 2, 2004
Signature Date

 /s/
Linda Fairchild
Non-Public Arbitrator

November 2, 2004
Signature Date

November 3, 2004
Date of Service (For NASD Dispute Resolution office use only)

No. 2, 2004 9:00AM 1-50

No. 6478 P. 5/8

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Respondent LMWW is solely liable for:

Counterclaim Filing Fee	= \$ 1,000.00
Member Fees	= \$ 7,000.00
Forum Fees	= \$ 3,000.00
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Less payments	= \$ 8,450.00
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All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Stan West

Beverly S. Gordon, Esq.

Linda Fairchild

Public Arbitrator, Presiding Chairperson

Public Arbitrator

Non-Public Arbitrator

Concurring Arbitrators' Signatures

Stan West

Public Arbitrator, Presiding Chairperson

Nov. 2, 2004

Signature Date

Beverly S. Gordon, Esq.

Public Arbitrator

Signature Date

Linda Fairchild

Non-Public Arbitrator

Signature Date

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

NASD Dispute Resolution

Arbitration No. 03-03359

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Respondent: LMWW is solely liable for:

Counterclaim Filing Fee	= \$ 1,000.00
Member Fees	= \$ 7,000.00
Forum Fees	= \$ 3,000.00
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Less payments	= \$ 8,450.00
Balance Due NASD Dispute Resolution	= \$ 2,550.00

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

ARBITRATION PANEL

Star West

Public Arbitrator, Presiding Chairperson

Beverly S. Gordon, Esq.

Public Arbitrator

Linda Fairchild

Non-Public Arbitrator

Concurring Arbitrators' Signatures

Star West

Signature Date

Public Arbitrator, Presiding Chairperson

Beverly S. Gordon, Esq.11/3/04

Beverly S. Gordon, Esq.

Signature Date

Public Arbitrator

Linda Fairchild

Signature Date

Non-Public Arbitrator

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

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Respondent: LMWW is solely liable for:

Counterclaim Filing Fee	= \$ 1,000.00
Member Fees	= \$ 7,000.00
Forum Fees	= \$ 3,000.00
Total Fees	= \$11,000.00
Less payments	= \$ 3,450.00
Balance Due NASD Dispute Resolution	= \$ 2,550.00

If balances are payable to NASD Dispute Resolution, and are due upon receipt pursuant to Rule 13330(g) of the Code.

ARBITRATION PANEL

Don West	-	Public Arbitrator, Presiding Chairperson
Devery S. Gordon, Esq.	-	Public Arbitrator
Linda Fairchild	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Don West
Public Arbitrator, Presiding Chairperson

Signature Date

Devery S. Gordon, Esq.
Public Arbitrator

Signature Date

Linda Fairchild
Linda Fairchild
Non-Public Arbitrator

11-2-04
Signature Date

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