

**AWARD**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between

Name of Claimant

William Krauter

and

03-03643  
Phoenix, Arizona

Name of Respondents

Piper Jaffray & Co. n/k/a U. S. Bancorp Piper Jaffray, Inc.  
Nico R. Willis  
Michael L. Cameron

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Nature of the Dispute: Associated Person vs. Member; Associated Persons.

**REPRESENTATION OF PARTIES**

William Krauter ("**Claimant**") was represented by Richard Parrish, Esq., Parrish & Berry, Tucson, Arizona.

Piper Jaffray & Co. n/k/a U. S. Bancorp Piper Jaffray, Inc. ("**Respondent Piper Jaffray**") was represented by Gerald Maltz, Esq., Haralson, Miller, Pitt, Feldman & McAnally, P.L.C., Tucson, Arizona.

Nico R. Willis ("**Respondent Willis**") and Michael L. Cameron ("**Respondent Cameron**") were represented by Eugene N. Goldsmith, Esq., McNamara, Goldsmith, Jackson & MacDonald, P.C., Tucson, Arizona.

**CASE INFORMATION**

The Statement of Claim was filed on or about May 19, 2003. Answer to Counterclaim was filed on or about February 17, 2004. Motion to Strike Abuse of Process Counterclaim was filed on or about August 9, 2004. Memorandum in Opposition to Motions for Summary Judgment and to Motion to Preclude was filed on or about September 2, 2004. Submission Agreement of Claimant William Krauter was signed on May 6, 2003.

Statement of Answer was filed by Respondent Piper Jaffray & Co. n/k/a U. S. Bancorp Piper Jaffray, Inc. on or about July 15, 2003. Respondent USBPJ's Motion for Summary Judgment or Alternatively, Motion to Preclude was filed on or about August 23, 2004. Reply to Claimant's

Opposition to Motions for Summary Judgment and to Preclude was filed on or about September 10, 2004.

Statement of Answer and Counterclaim was filed by Respondents Nico R. Willis and Michael L. Cameron on or about November 9, 2003. Respondents Cameron and Willis' Opposition to Plaintiff's Motion to Strike Abuse of Process Counterclaim and Motion for Summary Judgment was filed on or about August 23, 2004. Respondents Cameron and Willis' Joinder in Respondent Piper Jaffray's Motion for Summary Judgment or Alternatively, Motion to Preclude was filed on or about August 23, 2004. Respondents Cameron and Willis' Reply in Support of Motion for Summary Judgment was filed on or about September 9, 2004. Submission Agreement of Respondent Nico R. Willis was signed on November 1, 2003. Submission Agreement of Respondent Michael L. Cameron was signed on November 1, 2003.

### **CASE SUMMARY**

Claimant asserted the following causes of action: breach of contract; intentional interference with contract; and conversion. Claimant alleged that he had entered into an agreement to sell an interest in his client accounts to Respondents Cameron and Willis in exchange for monthly payments until the agreed upon sum was paid in full. It was further alleged that Respondents Cameron and Willis failed to pay as agreed. In addition, Claimant alleged that Respondent Piper Jaffray induced Respondents Cameron and Willis to bring the client accounts to the firm without his consent or knowledge.

Respondent Piper Jaffray denied the allegations set forth in the Statement of Claim. Respondent Piper Jaffray specifically stated that, upon information and belief, Krauter's claim was filed in retaliation for Respondent Cameron, Krauter's stepson, giving deposition testimony in an unrelated case against Krauter.

Respondents Cameron and Willis denied the allegations set forth in the Statement of Claim. Respondents Cameron and Willis alleged that Claimant breached their agreement by failing to cooperate with their move to Piper Jaffray and by recruiting clients away from them. Respondents Cameron and Willis asserted the following affirmative defenses: waiver; estoppel; laches; statute of limitations; acceptance; ratification; consent; and public policy considerations. In their Counterclaim, Respondents Cameron and Willis alleged that Claimant is bringing this claim to dissuade Respondent Cameron from testifying against him in an unrelated matter.

### **RELIEF REQUESTED**

Claimant requested an award as follows:

- A. For actual damages against Willis and Cameron for the Breach of Contract in such amount as shall be determined by the Arbitrators;

- B. For damages against U.S. Bancorp Piper Jaffray, Inc. for the Interference with Contract in such amount as shall be determined by the Arbitrators;
- C. For damages against all of the Respondents for Conversion in such amount as shall be determined by the Arbitrators;
- D. For punitive damages against all Respondents to punish their tortuous conduct and to dissuade such further tortuous conduct;
- E. And for such other and further relief as this Tribunal deems just.

In addition, Claimant requested that Counterclaimants take nothing by their action and that judgment be rendered on behalf of the Claimant.

Respondent Piper Jaffray requested that the claim be dismissed with prejudice; that it be awarded, pursuant to A.R.S. §§12-341.01 and 12-349, fees, costs, legal expenses, and sanctions; and also be awarded such other and further relief as may be just and proper.

Respondents Cameron and Willis requested that Claimant take nothing by his Statement of Claim and that they be awarded their costs, attorneys' fees and for such other and further relief as the Arbitrators deem just and proper. In their Counterclaim, Respondents Cameron and Willis requested unspecified compensatory damages; punitive damages; costs; attorneys' fees; and for such other and further relief as the Arbitrators deem just and proper.

#### **OTHER ISSUES CONSIDERED & DECIDED**

Respondent Piper Jaffray & Co. n/k/a U. S. Bancorp Piper Jaffray, Inc. did not file with the NASD Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to Rule 10301 of the NASD Code of Arbitration Procedure (the "Code") and having answered the claim, appeared and testified at the hearing is bound by the determination of the arbitration panel on all issues submitted.

By letter dated September 21, 2004, the parties were advised as follows:

the Summary Judgment Motion, the Motion to Preclude, and the Motion to Strike are all DENIED. The Objection Portion is sustained by the Panel except the Claimant shall be required to respond only to ROG NO. 5, ROG NO. 6 and RFP NO. 3.

Respondent Piper Jaffray & Co. n/k/a U. S. Bancorp Piper Jaffray, Inc. asserted a Motion to Dismiss the Statement of Claim. The parties stipulated to the dismissal with each party to pay their own attorneys fees and costs. The Arbitration Panel accepted the stipulation.

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. In either case, the parties have agreed to receive

conformed copies of the award while the original(s) remain on file with the NASD Dispute Resolution (the "NASD").

### **AWARD**

After considering the pleadings, the testimony, and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents Nico R. Willis and Michael L. Cameron shall be and hereby are jointly and severally liable for and shall pay to Claimant William Krauter the sum of \$135,000.00 (**One Hundred Thirty Five Thousand Dollars and No Cents**) as compensatory damages.
2. Respondents Nico R. Willis and Michael L. Cameron shall be and hereby are jointly and severally liable for and shall pay to Claimant William Krauter the sum of \$15,000.00 (**Fifteen Thousand Dollars and No Cents**) as attorneys fees and costs.
3. That to the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto are denied with prejudice.
4. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys fees, not specifically awarded or otherwise provided for above.

### **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	= \$250.00
Counter claim filing fee	= \$250.00

#### **Member Fees**

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm(s) is Piper Jaffray & Co. n/k/a U. S. Bancorp Piper Jaffray, Inc.

Member surcharge	\$	1,500.00
Pre-hearing process fee	\$	750.00
Hearing process fee	\$	2,200.00
Total Member Fees	\$	4,450.00

#### **Forum Fees and Assessments**

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

1 Pre-hearing session(s) with Panel	x	1,000.00	\$	1,000.00
February 4, 2004	1	session		
2 Hearing sessions	x	1,000.00	\$	2,000.00
October 19, 2004	2	sessions		
Total Forum Fees			\$	3,000.00

The Arbitration Panel has assessed \$1,500.00 of the forum fees to William Krauter.

The Arbitration Panel has assessed \$1,500.00 of the forum fees jointly and severally to Nico R. Willis and Michael L. Cameron.

#### **Fee Summary**

Claimant, William Krauter, shall be and hereby is liable for:

Initial Filing Fee	= \$	250.00
<u>Forum Fees</u>	= \$	1,500.00
Total Fees	= \$	1,750.00
<u>Less payments</u>	= \$	-2,125.00
Balance to be refunded by NASD Dispute Resolution	= \$	- 375.00

Respondents Cameron and Willis shall be and hereby are jointly and severally liable for:

Counterclaim Filing Fee	= \$	250.00
<u>Forum Fees</u>	= \$	1,500.00
Total Fees	= \$	1,750.00
<u>Less payments</u>	= \$	-1,250.00
Balance Due NASD Dispute Resolution	= \$	500.00

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Respondent, Piper Jaffray & Co. n/k/a U. S. Bancorp Piper Jaffray, Inc., shall be and hereby is liable for:

Member Fees	= \$	4,450.00
Total Fees	= \$	4,450.00
Less payments	= \$	-4,450.00
Balance Due NASD Dispute Resolution	= \$	0.00

All balances are due to NASD Dispute Resolution

**ARBITRATION PANEL**

Richard L. Merkel - Public Arbitrator, Presiding Chair  
Timothy P. Walker, Esq. - Public Arbitrator  
Charles C. DeMoss - Non-Public Arbitrator

Concurring Arbitrators:

  
Richard L. Merkel  
Public Arbitrator, Presiding Chair

10/28/04  
Signature Date

\_\_\_\_\_  
Timothy P. Walker, Esq.  
Public Arbitrator

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

\_\_\_\_\_  
Charles C. DeMoss  
Non-Public Arbitrator

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

\_\_\_\_\_  
Date of Service (For NASD office use only)

NASD Dispute Resolution

Arbitration No. 03-03643

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Respondent, Piper Jaffray & Co. n/k/a U. S. Bancorp Piper Jaffray, Inc., shall be and hereby is liable for:

Member Fees	= \$	4,450.00
Total Fees	= \$	4,450.00
Less payments	= \$	4,450.00
Balance Due NASD Dispute Resolution	= \$	0.00

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Timothy P. Walker, Esq. - Public Arbitrator  
Charles C. DeMoss - Non Public Arbitrator

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Public Arbitrator, Presiding Chair

*Timothy P. Walker*  
Timothy P. Walker, Esq.  
Public Arbitrator

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

*10/29/04*  
Signature Date

Charles C. DeMoss  
Non-Public Arbitrator

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Signature Date

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Date of Service (For NASD office use only)

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 Arbitration No. 03-03643  
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Respondent, Piper Jaffray & Co. n/k/a U. S. Bancorp Piper Jaffray, Inc., shall be and hereby is liable for:

Member Fees	= \$	4,450.00
Total Fees	= \$	4,450.00
<u>Less payments</u>	= \$	-4,450.00
Balance Due NASD Dispute Resolution	= \$	0.00

All balances are due to NASD Dispute Resolution

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 Non-Public Arbitrator

Signature Date

10-28-2004

Date of Service (For NASD office use only)