

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Sharon Carr (Claimant) v. BrokerageAmerica, LLC (Respondent)

Case Number: 03-04476

Hearing Site: New York, New York

Nature of the Dispute: Associated Person v. Member.

REPRESENTATION OF PARTIES

Claimant Sharon Carr ("Carr") hereinafter referred to as "Claimant": Judith P. Vladeck, Esq., Vladeck, Waldman, Elias, & Engelhard, P.C., New York, NY.

Respondent BrokerageAmerica, LLC ("BrokerageAmerica") hereinafter referred to as "Respondent": Christina L. Feege, Littler Mendelson, P.C., New York, NY.

CASE INFORMATION

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

Amended Statement of Claim filed on or about: July 10, 2003.

Second Amended Statement of Claim filed on or about: August 6, 2003.

Answer to Counterclaims filed by Claimant on or about: October 6, 2003.

Claimant signed the Uniform Submission Agreement.

Statement of Answer to Second Amended Claim and Counterclaim filed by Respondent on or about: September 18, 2003.

Respondent did not sign the Uniform Submission Agreement.

CASE SUMMARY

In the Statement of Claim and Amended Statement of Claim, Claimant asserted the following causes of action: breach of employment contract and failure to pay Claimant compensation owed. In the Second Amended Statement of Claim, Claimant asserted the following causes of action: breach of contract; violation of the New York Labor Law; and defamation.

Unless specifically admitted in her Answer to Counterclaim, Claimant denied the allegations of wrongdoing set forth in the Counterclaim.

Unless specifically admitted in its Answer to Second Amended Claim, Respondent denied the

allegations of wrongdoing set forth in the Statement of Claim and asserted various affirmative defenses.

In its Counterclaim, Respondent asserted the following causes of action: unjust enrichment and fraudulent misrepresentation.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested that the Panel enter an award: of compensatory damages in the amount of \$575,000.00; compensatory damages in the amount of \$750,000.00; declaring the acts and practices complained of herein constitute breaches of the Employment Contract; directing Respondent to make Claimant whole for all compensation she would have received but for Respondent's breach of paragraph 6.1 of the Employment Contract; directing Respondent to make Claimant whole for all severance she would have received but for Respondent's breach of paragraph 8.2 of the Employment Agreement; awarding Claimant such interest as allowed by law; and granting such other and further relief, including the costs and expenses of this proceeding, as the Arbitration Panel deems necessary and proper.

In the Amended Statement of Claim, Claimant requested that the Panel enter an award: of compensatory damages in the amount of \$575,000.00; compensatory damages in the amount of \$750,000.00; declaring the acts and practices complained of herein are a breach of the Employment Contract; declaring the acts and practices complained of herein are a violation of New York Labor Law; directing the Respondent to make Claimant whole for all compensation she would have received but for Respondent's breach of the Employment Contract, including, but not limited to, wages as provided in paragraph 6.1 of the Employment Contract; directing Respondent to pay Claimant severance as provided in paragraph 8.2 of the Employment Contract; directing Respondent to pay Claimant the amount of wages improperly withheld in violation of New York Labor Law; awarding Claimant liquidated damages equal to 25% of the wages unlawfully withheld, pursuant to New York Labor Law § 198; awarding Claimant attorneys' fees and costs pursuant to New York Labor Law § § 198 (1, 1-a); interest as is allowed by law; and such other and further relief as the Panel deems necessary and proper.

In the Second Amended Statement of Claim, Claimant requested that the Panel enter an award: of compensatory damages in the amount of \$575,000.00; compensatory damages in the amount of \$750,000.00; declaring the acts and practices complained of herein are a breach of the Employment Contract; declaring the acts and practices complained of herein are a violation of New York Labor Law; declaring the acts and practices complained of herein are defamatory in violation of New York common law; directing the Respondent to make Claimant whole for all compensation she would have received but for Respondent's breach of the Employment Contract, including, but not limited to, wages as provided in paragraph 6.1 of the Employment Contract; directing Respondent to pay Claimant severance as provided in paragraph 8.2 of the Employment Contract; directing Respondent to pay Claimant the amount of wages improperly

withheld in violation of New York Labor Law; awarding Claimant liquidated damages equal to 25% of the wages unlawfully withheld, pursuant to New York Labor Law § 198; awarding Claimant attorneys' fees and costs pursuant to New York Labor Law § § 198 (1, 1-a); interest as is allowed by law; directing Respondent to file an amended Form U-5 regarding Claimant which contains no false statements; and such other and further relief as the Panel deems necessary and proper.

In her Answer to the Counterclaim, Claimant requested that the Counterclaims be dismissed.

Respondent denied all allegations in the Second Amended Statement of Claim and requested dismissal of the Second Amended Statement of Claim in its entirety; rescind the Agreement; order Claimant to forfeit the BrokerageAmerica stock granted to her in April 2003; disgorge all Draw payments paid to her in reliance upon her fraudulent misrepresentations; and such other relief as is appropriate.

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.

The parties have entered into a confidential settlement agreement resolving this matter, the substantive terms of which are summarized in a term sheet which has been reduced to a more detailed writing including all terms of the settlement dated April 1, 2004.

Respondent has executed a corporate confession of judgment, which Claimant's counsel will hold in escrow pursuant to its terms. The confession of judgment and all copies will remain confidential unless and until it is filed. Assuming the corporate confession of judgment is not filed, Claimant will return to Respondent the original and all copies of the corporate confession of judgment once all payments listed in the corporate confession of judgment have been made.

Respondent agrees to amend Claimant's Form U-5, which was filed in or about July 2003, to remove language stating that the reason for Claimant's termination was "discharge" and that Claimant "violated employment agreement". Instead, the Form U-5 will state the reason for termination was "voluntary". The Form U-5 filed by respondent on or about July 2003 was filed in error.

The parties agree that NASD Dispute Resolution will refund Claimant her \$1,200.00 hearing session deposit and that Respondent will pay all remaining NASD fees, not to exceed \$5,000.00.

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

The parties entered into an agreement to present to the Panel a Stipulated Award. Now, in lieu of a hearing and upon motion of both parties for an entry of an award, the written stipulation thereto, the Panel grants the motion and enters this award granting the following relief:

1. The Panel recommends the following expungement of Sharon Carr's CRD record:
 - a. The Panel recommends that CRD expunge the portion of Section 3 of Claimant's Form U-5, submitted by BrokerageAmerica LLC, which states that Claimant was "Discharged". The Panel also recommends that CRD expunge the accompanying explanation that states, "violated employment agreement."
 - b. The Panel orders CRD to replace the reason for termination in Section 3 of Claimant's Form U-5 so that "Voluntary" appears as the reason for termination.

The Panel recommends the above with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Claimant Sharon Carr must obtain confirmation from a court of competent jurisdiction before CRD will execute the expungement directive.

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, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$ 500.00
Counterclaim filing fee	= \$ 500.00

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. In this matter, BrokerageAmerica, LLC is a party.

Member Surcharge	= \$2,800.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$5,000.00</u>

Total Member Fees = \$8,550.00

Forum Fees and Assessments

The Panel assesses forum fees for each hearing session conducted. A hearing 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. Forum fees associated with these proceedings are:

One (1) Pre-hearing conference session with a single arbitrator @ \$450.00/session = \$ 450.00

Pre-hearing conference: February 12, 2004 1 session

One (1) Pre-hearing conference session with the Panel @ \$1,200.00/session = \$1,200.00

Pre-hearing conference: January 8, 2004 1 session

Two (2) Hearing sessions @ \$1,200.00/session = \$2,400.00

Hearing: March 25, 2004 2 sessions

Total Forum Fees = \$4,050.00

1. The Panel has assessed \$4,050.00 of the forum fees against Respondent.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee = \$ 500.00

Total Fees = \$ 500.00

Less payments = \$ 1,700.00

Refund Due to Claimant = \$ 1,200.00

2. Respondent is solely liable for:

Counterclaim Filing Fee = \$ 500.00

Member Fees = \$ 8,550.00

Forum Fees = \$ 4,050.00

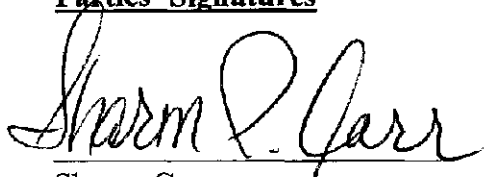
Total Fees = \$13,100.00

Less payments = \$ 8,550.00

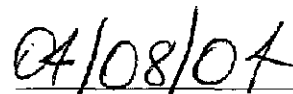
Balance Due NASD Dispute Resolution = \$ 4,550.00

All balances are due and payable to NASD Dispute Resolution

Parties' Signatures



Sharon Carr
Claimant



Signature Date

BrokerageAmerica, LLC
Respondent

Signature Date


NAI Dispute Resolution
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Parties' Signatures

Shawn Carr
Claimant


BrokerageAmerica, LLC
Respondent


Signature Date


Signature Date

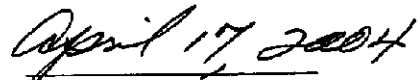
ARBITRATION PANEL

Peter R. Cella, Esq.	-	Public Arbitrator, Presiding Chair
James W. Geiger	-	Public Arbitrator
Francis J. LaSalla	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Peter R. Cella, Esq.
Public Arbitrator, Presiding Chair



Signature Date

James W. Geiger
Public Arbitrator

Signature Date

Francis J. LaSalla
Non-Public Arbitrator

Signature Date

April 27, 2004

Date of Service (For NASD office use only)

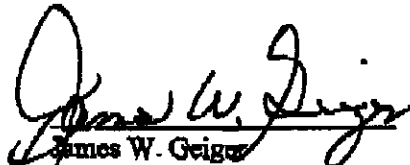
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Public Arbitrator, Presiding Chair

Signature Date



James W. Geiger
Public Arbitrator



Signature Date

Francis J. LaSalla
Non-Public Arbitrator

Signature Date

April 27, 2004
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Concurring Arbitrators' Signatures

Peter R. Cella, Esq.
Public Arbitrator, Presiding Chair

Signature Date

James W. Geiger
Public Arbitrator

Signature Date

Francis J. LaSalla
Non-Public Arbitrator

April 13, 2004
Signature Date

April 27, 2004

Date of Service (For NASD office use only)