

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Nicholas A. Nepor

Case Number: 03-05754

Name of the Respondent
Lehman Brothers, Inc.

Hearing Site: Atlanta, Georgia

Nature of the Dispute: Associated Person vs. Member.

REPRESENTATION OF PARTIES

For Nicholas A. Nepor, hereinafter referred to as "Claimant": Benton J. Mathis, Jr., Esq. and William H. Buechner, Jr., Esq., Freeman Mathis & Gary, Atlanta, Georgia.

For Lehman Brothers, Inc., hereinafter referred to as "Respondent": G. Wayne Hillis, Jr., Esq. and Patrice R. Walker, Esq., Parker, Hudson, Rainer & Dobbs LLP, Atlanta, Georgia.

CASE INFORMATION

Statement of Claim filed on or about: August 4, 2003.

Claimant signed the Uniform Submission Agreement: June 30, 2003.

Statement of Answer filed by Respondent on or about: October 21, 2003.

Respondent did not file an executed Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: breach of employment contract; breach of an implied contract; promissory estoppel; fraud; and, stubborn litigiousness. The causes of action relate to the termination of Claimant's employment with Respondent.

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

RELIEF REQUESTED

Claimant requested the 7,585.12 restricted stock units, the sum of between \$200,000.00 and \$780,000.00 for the bonus for the year 2000, plus an additional amount of compensatory and punitive damages deemed appropriate by the arbitration panel, plus attorneys' fees and expenses of \$100,942.13.

Respondent requested that the arbitration panel deny Claimant's claims in their entirety and award Respondent the costs and attorneys' fees incurred by Respondent in this action.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent did not file with NASD Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to 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 Panel on all issues submitted.

The parties have agreed that the Award in this matter may be executed in counterpart copies.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), the undersigned arbitrators (the "Panel") have decided in full and final resolution of the issues submitted for determination as follows:

Claimant's claims are denied in their entirety.

Any and all claims for relief not specifically addressed herein, including Claimant's request for punitive damages, are denied.

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 = \$375.00

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 is 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:

No adjournment fees were incurred in this matter.

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.

No three-day cancellation fees were incurred in this matter.

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.

No injunctive relief fees were incurred in this matter.

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A 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:

Two (2) Pre-hearing sessions with the Panel @ \$1,200.00	= \$2,400.00
Pre-hearing conferences: February 12, 2004 1 session	
August 2, 2004 1 session	
Six (6) Hearing sessions @ \$1,200.00	= \$7,200.00
Hearing Dates: October 11, 2004 2 sessions	
October 12, 2004 2 sessions	
October 13, 2004 2 sessions	
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Total Forum Fees	= \$9,600.00

The Panel has assessed \$4,800.00 of the forum fees to Claimant.

The Panel has assessed \$4,800.00 of the forum fees to Respondent.

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 are 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 in this matter.

FEE SUMMARY

Claimant is solely liable for:

Initial Filing Fee	= \$375.00
Forum Fees	= \$4,800.00
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Total Fees	= \$5,175.00

Less payments = \$1,700.00

Balance Due NASD Dispute Resolution = \$3,475.00

Respondent is solely liable for:

Member Fees = \$7,000.00

Forum Fees = \$4,800.00

Total Fees = \$11,800.00

Less payments = \$7,000.00

Balance Due NASD Dispute Resolution = \$4,800.00

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

ARBITRATION PANEL

David S. Saylor	-	Non-Public Arbitrator, Presiding Chair
Earle Park Kelley	-	Non-Public Arbitrator
Kenneth I. Daniels, JD	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

_____/s/_____
David S. Saylor
Non-Public Arbitrator, Presiding Chair

Signature Date

_____/s/_____
Earle Park Kelley
Non-Public Arbitrator

Signature Date

_____/s/_____
Kenneth I. Daniels, JD
Non-Public Arbitrator

Signature Date

October 21, 2004

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

Less payments = \$1,700.00

Balance Due NASD Dispute Resolution = \$3,475.00

Respondent is solely liable for:

Member Fees = \$7,000.00

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Less payments = \$7,000.00

Balance Due NASD Dispute Resolution = \$4,800.00

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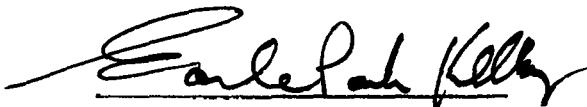
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Earle Park Kelley	-	Non-Public Arbitrator
Kenneth I. Daniels, JD	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

David S. Saylor
Non-Public Arbitrator, Presiding Chair

Signature Date



Earle Park Kelley
Non-Public Arbitrator

10/19/2004

Signature Date

Kenneth I. Daniels, JD
Non-Public Arbitrator

Signature Date

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Earle Park Kelley

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Non-Public Arbitrator, Presiding Chair

Non-Public Arbitrator

Non-Public Arbitrator

Concurring Arbitrators' Signatures

David S. Saylor

David S. Saylor

Non-Public Arbitrator, Presiding Chair

10-21-04
Signature Date

Earle Park Kelley

Non-Public Arbitrator

Signature Date

Kenneth I. Daniels, JD

Non-Public Arbitrator

Signature Date

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Earle Park Kelley	-	Non-Public Arbitrator
Kenneth I. Daniels, JD	-	Non-Public Arbitrator


Concurring Arbitrators' Signatures

David S. Saylor
Non-Public Arbitrator, Presiding Chair

Signature Date

Earle Park Kelley
Non-Public Arbitrator

Signature Date


Kenneth I. Daniels, JD
Non-Public Arbitrator

10/20/04
Signature Date

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