

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Emmett A. Larkin Company, Inc. (Claimant) v. Anthony Girellini (Respondent) v. Michael Warner (Third-Party Respondent)

Case Number: 03-09083

Hearing Site: New York, New York

Nature of the Dispute: Member vs. Associated Person (Initial Claim).
Associated Person v. Associated Person (Third-Party Claim).

REPRESENTATION OF PARTIES

Claimant Emmett A. Larkin Company, Inc. ("Emmett") hereinafter collectively referred to as "Claimant": Melvin L. Peterson, Emmett A. Larkin Company, Inc., San Francisco, CA.

Respondent Anthony Girellini ("Girellini") hereinafter referred to as "Respondent": Louis H. Miron, Esq., Louois H. Miron Attorney at Law, Westfield, NJ. Previously represented by: Barbara J. Glenss, Esq., New York, NY.

Third-Party Respondent Michael Warner ("Warner") hereinafter referred to as "Third-Party Respondent": Darren M. Baldo, Esq., Darren M. Baldo, Esq., CPA, LLM, Princeton Junction, NJ.

CASE INFORMATION

Statement of Claim filed on or about: December 15, 2003.

Claimant's Response to Respondent Girellini's Counterclaim filed on or about: April 30, 2004.

Claimant signed the Uniform Submission Agreement: December 4, 2003.

Statement of Answer, Counterclaim, and Third-Party Claim filed by Respondent on or about: April 5, 2004.

Respondent Girellini signed the Uniform Submission Agreement: February 13, 2004.

Statement of Answer filed by Third-Party Respondent on or about: May 28, 2004.

Third-Party Respondent signed the Uniform Submission Agreement: May 28, 2004.

CASE SUMMARY

Claimant asserted the following cause of action: breach of contract. Unless specifically admitted in its Response to the Counterclaim, Claimant denied the allegations made in the Counterclaim.

Unless specifically admitted in his Answer, Respondent Girellini denied the allegations made in the Statement of Claim and asserted various affirmative defenses. In his Counterclaim against Claimant, Respondent asserted the following causes of action: withholding compensation; and that he was forced to sign promissory notes. In his Third-Party Claim against Warner, Respondent Girellini requested indemnification.

Unless specifically admitted in his Answer to the Third-Party Claim, Third-Party Respondent Warner denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$62,661.09; costs; and interest. In the Response to the Counterclaim, Claimant requested that the Counterclaim be denied in its entirety, and that Respondent Girellini be ordered to pay the sum requested in Claimant's original Statement of Claim, plus interest and costs.

Respondent requested that Claimant takes nothing by their Statement of Claim; that this action be dismissed; and that any and all costs of this proceeding be assessed against the Claimant. In his Counterclaim, Respondent requested compensatory damages in the amount of \$15,786.57, plus interest; and loss of business and revenue in the amount of \$1,000,000.00, plus interest. In his Third-Party Claim, Respondent requested indemnification, costs, including attorneys' fees, other costs and expenses, and any other relief the Panel deems appropriate.

OTHER ISSUES CONSIDERED AND DECIDED

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.

AWARD

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

1. Respondent Girellini is liable to Claimant for \$15,786.57. This represents Girellini's January 2003 commissions of \$11,306.22, and February 2003 commissions of \$4,480.35 which Claimant will continue to withhold as full payment of this award. Respondent Girellini is not responsible for any additional payments to Claimant.

2. Respondent's Counterclaims are denied in their entirety.
3. Respondent's Third-Party Claims are denied in their entirety.
4. 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 will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$1,000.00
Girellini's 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 persons at the time of the events giving rise to the dispute. Accordingly, Emmett A. Larkin Company, Inc. is a party.

Member surcharge	= \$1,100.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$5,000.00

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	= \$1,200.00
Pre-hearing conference: August 20, 2004 1 session	

Two (2) Hearing sessions @ \$1,200.00	= \$2,400.00
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Hearing Date: February 9, 2005 2 sessions	
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Total Forum Fees	= \$3,600.00
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1. The Panel has assessed \$1,800.00 of the forum fees against Claimant.
2. The Panel has assessed \$900.00 of the forum fees against Respondent.
3. The Panel has assessed \$900.00 of the forum fees against Third-Party Respondent.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$1,000.00
Member Fees	= \$6,850.00
Forum Fees	= \$1,800.00
Total Fees	= \$9,650.00
Less payments	= \$7,600.00
Balance Due NASD Dispute Resolution	= \$2,050.00

2. Respondent is solely liable for:

Counterclaim Filing Fee	= \$ 500.00
Forum Fees	= \$ 900.00
Total Fees	= \$1,400.00
Less payments	= \$1,575.00
Refund Due Respondent	= \$ 175.00

3. Third-Party Respondent is solely liable for:

Forum Fees	= \$ 900.00
Total Fees	= \$ 900.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 900.00

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

ARBITRATION PANEL

Linda S. Cole	-	Non-Public Arbitrator, Presiding Chairperson
Bernard J. McGuire	-	Non-Public Arbitrator
Sean Patrick Gaffney	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.



Linda S. Cole
Non-Public Arbitrator, Presiding Chairperson

2/13/05
Signature Date

Bernard J. McGuire
Non-Public Arbitrator

Signature Date

Sean Patrick Gaffney
Non-Public Arbitrator

Signature Date

February 24, 2005
Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

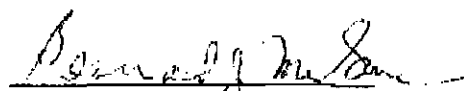
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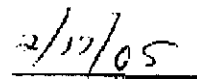
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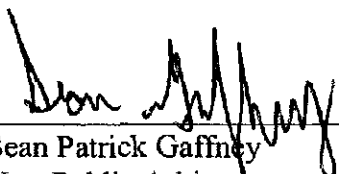
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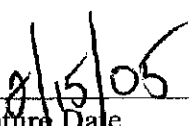
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