

**Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Leerink Swann & Co., Inc. (Claimant) v. Paul S. Hartwell (Respondent)

Case Number: 04-00295

Hearing Site: Boston, Massachusetts

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Nature of the Dispute: Member vs. Associated Person.

**REPRESENTATION OF PARTIES**

Claimant Leerink Swann & Co., Inc. ("Leerink") hereinafter referred to as "Claimant": John I. Fitzgerald, Leerink Swann & Co., Inc., Boston, MA.

Respondent Paul S. Hartwell ("Hartwell") hereinafter referred to as "Respondent": Nikki D. Sanders, Esq., Law Offices of Nikki D. Sanders, Boston, MA. Previously *pro se*.

**CASE INFORMATION**

Statement of Claim filed on or about: January 15, 2004.

Claimant signed the Uniform Submission Agreement: January 15, 2004.

Statement of Answer filed by Respondent on or about: April 2, 2004.

Respondent signed the Uniform Submission Agreement: April 18, 2004.

**CASE SUMMARY**

Claimant asserted the following cause of action: failure to repay loan proceeds owed to Claimant under the terms of a written employment agreement.

Unless specifically admitted in his Answer, Respondent denied the allegations made in the Statement of Claim.

**RELIEF REQUESTED**

Claimant requested compensatory damages in the amount of \$35,000.00; interest in the amount of \$1,750.00; reasonable attorneys' fees; costs, and forum fees; and all other relief that the arbitrators deem just and equitable.

**OTHER ISSUES CONSIDERED AND DECIDED**

The Claimant initially sought \$35,000.00, plus \$1,750.00 in interest. The Claimant amended its claim during closing argument to \$35,000.00 less \$1,200.00 already paid by the Respondent, plus interest of \$6,000.00 and assessment of forum fees and filing fees against the Respondent.

**AWARD**

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

1. Respondent is liable and shall pay to Claimant compensatory damages in the amount of \$33,800.00.
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 will retain or collect the non-refundable filing fees for each claim:

Initial claim 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, Leerink Swann & Co., Inc. is a party.

Member surcharge	= \$ 875.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$1,000.00

**Forum Fees and Assessments**

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

One (1) Pre-hearing session with Panel @ \$450.00	= \$ 450.00
Pre-hearing conference: June 17, 2004	1 session

Two (2) Hearing sessions @ \$450.00	= \$ 900.00
Hearing Dates: September 8, 2004	1 session
November 19, 2004	1 session

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Total Forum Fees	= \$1,350.00
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1. The Arbitrator has assessed \$1,350.00 of the forum fees against Respondent.

**Fee Summary**

1. Claimant is solely liable for:

Initial Filing Fee	= \$1,000.00
<u>Member Fees</u>	= <u>\$2,625.00</u>
Total Fees	= \$3,625.00
<u>Less payments</u>	= <u>\$5,075.00</u>
Refund Due Claimant	= \$1,450.00

2. Respondent is solely liable for:

<u>Forum Fees</u>	= <u>\$1,350.00</u>
Total Fees	= \$1,350.00
<u>Less payments</u>	= <u>\$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$1,350.00

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

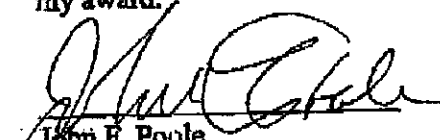
**ARBITRATOR**

John F. Poole

Sole Non-Public Arbitrator

**Arbitrator's Signature**

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7307 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

  
John F. Poole  
Sole Non-Public Arbitrator

November 23, 2004  
Signature Date

November 23, 2004  
Date of Service (For NASD Dispute Resolution use only)