

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Claimant/Counter-Respondent

Giovanni Volpe

and

Case Number: 04-00346
Hearing Site: Southfield, Michigan

Respondent/Counter-Claimant

McDonald Investments, Inc.

NATURE OF DISPUTE

Associated Person v. Member and Member v. Associated Person

REPRESENTATION OF PARTIES

Giovanni Volpe ("Claimant" or "Volpe") was represented by Mark R. Werder, Esq., Honigman Miller Schwartz and Cohen LLP, Detroit, Michigan.

McDonald Investments, Inc. ("Respondent" or "McDonald") was represented by Matthew J. Morelli, Esq., Ulmer & Berne LLP, Cleveland, Ohio.

CASE INFORMATION

The Statement of Claim was filed on or about January 16, 2004. The Submission Agreement of Volpe was signed on or about February 9, 2004.

The Statement of Answer was filed by McDonald on or about May 7, 2004. The Submission Agreement of McDonald was signed on or about April 29, 2004.

CASE SUMMARY

Claimant asserted that Respondent's demand for repayment of the balance of an employee forgivable loan constituted a breach of contract. Claimant further asserted that Respondent prejudiced Claimant's ability to maintain his business by making false representations to his customers.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted defenses including the following: Claimant's production dropped and he was terminated, and Respondent did not hinder Claimant's ability to meet his production minimums. Respondent asserted a counterclaim for failure to repay an up-front forgivable loan.

RELIEF REQUESTED

Claimant requested an award declaring the parties' rights regarding their dispute, plus forum and filing fees.

Respondent requested that the claims asserted against it be denied in their entirety and that it be awarded its costs and attorneys' fees. Respondent requested \$484,385.40 in its counterclaim, plus pre and post judgment interest, attorneys' fees and costs.

OTHER ISSUES CONSIDERED & 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. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with NASD Dispute Resolution ("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.) The panel finds that pursuant to the October 25, 2000, Letter Agreement between Claimant and Respondent, the balance claimed due (\$484,385.40) on the December 8, 2000, Loan Agreement is forgiven;
- 2.) The Counter-claim filed by Respondent, McDonald Investments, Inc., is denied and dismissed with prejudice;
- 3.) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and
- 4.) Any relief not specifically enumerated, attorney fees, is hereby denied with prejudice.

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
Counterclaim 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 firms that employed the associated person at the time of the events giving rise to the dispute. In this matter, the member firm is McDonald Investments, Inc.

Member surcharge	= \$ 1,500.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 2,750.00

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:

One (1) Pre-hearing session with Panel x \$1,125.00	= \$ 1,125.00
Pre-hearing conference: September 17, 2004	1 session
Two (2) Hearing sessions x \$1,125.00	= \$ 2,250.00
Hearing Date: March 22, 2005	2 sessions
Total Forum Fees	= \$ 3,375.00

The Arbitration Panel has assessed \$1,687.50 of the forum fees to Giovanni Volpe.
The Arbitration Panel has assessed \$1,687.50 of the forum fees to McDonald Investments, Inc.

Fee Summary

Claimant, Giovanni Volpe, is liable for:

Initial Filing Fee	= \$ 250.00
Forum Fees	= \$ 1,687.50
Total Fees	= \$ 1,937.50
Less payments	= \$ 1,250.00
Balance Due NASD Dispute Resolution	= \$ 687.50

Respondent, McDonald Investments, Inc., is liable for:

Counterclaim Filing Fee	= \$ 1,000.00
Member Fees	= \$ 5,000.00
Forum Fees	= \$ 1,687.50
Total Fees	= \$ 7,687.50
Less payments	= \$ 8,375.00
Balance Refunded by Dispute Resolution	= \$ 687.50

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

ARBITRATION PANEL

Laura M. Nelson, Esq. - Non-Public Arbitrator, Presiding Chair
Norman A. Samson - Non-Public Arbitrator
Peter S. Viviano - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Laura M. Nelson, Esq.
Laura M. Nelson, Esq.
Non-Public Arbitrator, Presiding Chair

03/23/05
Signature Date

/s/ Norman A. Samson
Norman A. Samson
Non-Public Arbitrator

03/23/05
Signature Date

/s/ Peter S. Viviano
Peter S. Viviano
Non-Public Arbitrator

03/23/05
Signature Date

03/23/05
Date of Service (For NASD office use only)

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ARBITRATION PANEL

Laura M. Nelson; Esq. - Non-Public Arbitrator, Presiding Chair
Norman A. Samson - Non-Public Arbitrator
Peter S. Viviano - Non-Public Arbitrator

Concurring Arbitrators:

Non-Public Arbitrator, Presiding Chair

Laura M. Nelson, Esq.
Non-Public Arbitrator, Presiding Chair

Wm. H. H. H. H.

Norman A. Sampson
Non-Public Arbitrator

9/11/2001

Peter S. Viviano
Non-Public Arbitrator

3-23-05

Signature Date

3-23-05

Signature Date

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