
Amended Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Adam D. Lorraine

Case Number: 04-00376

Name of the Respondent
Sterling Financial Investment Group, Inc.

Hearing Site: Boca Raton, Florida

Nature of the Dispute: Associated Person vs. Member.

REPRESENTATION OF PARTIES

For Adam D. Lorraine, hereinafter referred to as "Claimant": Richard B. Warren, Esq., Kelly & Warren, P.A., West Palm Beach, Florida.

For Sterling Financial Investment Group, Inc., hereinafter referred to as "Respondent": Kathy M. Klock, Esq., Steel Hector & Davis, LLP, West Palm Beach, Florida.

CASE INFORMATION

Statement of Claim filed on or about: January 21, 2004.

Claimant signed the Uniform Submission Agreement: January 13, 2004.

Statement of Answer filed by Respondent on or about: October 7, 2004.

Respondent signed the Uniform Submission Agreement: April 7, 2004.

Motion for Summary Dismissal of Statement of Claim filed on or about: April 23, 2004.

Response to Motion for Summary Dismissal of the Statement of Claim filed on or about: May 5, 2004.

Affidavit in Support of Motion for Summary Dismissal of Statement of Claim filed on or about: July 23, 2004.

CASE SUMMARY

Claimant asserted a claim for defamation. The cause of action relates to the Form U-5 filed by Respondent with respect 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 defenses.

RELIEF REQUESTED

Claimant requested compensatory damages of at least \$1,000,000.00 but not to exceed \$5,000,000.00, plus punitive damages.

Respondent requested that the Panel deny the claims alleged in the Statement of Claim, assess the costs of this proceeding, including forum fees, against Claimant and enter an award in

Respondent's favor entitling it to seek attorney's fees from a court of competent jurisdiction.

OTHER ISSUES CONSIDERED AND DECIDED

On or about July 8, 2004, the Panel issued an order denying Respondent's Motion for Summary Dismissal of Statement of Claim.

On or about August 13, 2004, the Panel issued an order stating that the Affidavit in Support of Respondent's Motion for Summary Dismissal of Statement of Claim did not change the Panel's July 8, 2004 ruling in any manner.

On or about July 28, 2005, the Panel determined to issue an Amended Award to include language that would allow for the execution of the Panel's expungement recommendation.

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

AWARD

After considering the pleadings, 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:

Respondent is liable and shall pay to Claimant total compensatory damages in the amount of \$352,700.00, representing \$350,000.00 for the claim of defamation and \$2,700.00 for commissions withheld improperly. Additionally, Respondent is liable and shall pay to Claimant interest on the total compensatory damage award at the Florida statutory rate from June 16, 2003 until paid.

The Panel found that the Form U-5 filed by Respondent with respect to the termination of Claimant's employment was false. The Panel finds no clear evidence of unauthorized trading or front running by Claimant. As such, the Panel finds that Respondent's conduct constitutes defamation with malice pursuant to *Bobenhausen v. Cassat Avenue Mobile Homes, Inc.*, 334 So. 2d 279 (Fla. 1st DCA 1997) and *Saunders Hardware Five and Ten, Inc. v. Low*, 307 So.2d 893 (Fla. 3rd DCA 1974). Accordingly, Respondent is liable and shall pay punitive damages to Claimant in the amount of \$100,000.00.

Respondent is liable and shall pay to Claimant \$600.00 representing reimbursement of the initial claim filing fee previously paid by Claimant to NASD Dispute Resolution.

The Panel recommends the expungement from Claimant's Form U-5 of all references to Claimant's termination based upon unauthorized trading, front running and the corresponding \$10,000.00 fine, due to the defamatory nature of the information in the NASD Central Registration Depository ("CRD") system. This includes the reason for termination and accompanying termination comment as well as the "yes" answer to question 7B (internal review

question) and details reported on the U5 Internal Review Disclosure Reporting Page (DRP). The reason for termination (i.e., discharge) should be replaced with "voluntary." Replacement language for the required termination comment is not required when 'voluntary' is the reason for termination.

The Panel further recommends the expungement of all references to Claimant's termination from Sterling Financial Investment Group, Inc. made via the Form U4 (including but not limited to, the 'yes' answer to question 14J and details reported on the U4 termination DRP).

Any and all claims for relief not specifically addressed herein, including Respondent's request for attorneys' fees, are denied.

FEES

Pursuant to the NASD Code of Arbitration Procedure (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	= \$ 600.00
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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 event giving rise to the dispute. In this matter, the member firm Sterling Financial Investment Group, Inc. is a party.

Member surcharge	= \$2,800.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$5,000.00

Adjournment Fees

Adjournment granted during these proceedings for which fees were assessed:

February 8-11, 2005, adjournment requested by Respondent	= \$ 1,200.00
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The Panel waived the adjournment fee of \$1,200.00.

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 arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) Pre-hearing sessions with a single arbitrator @ \$450.00	= \$ 900.00
Pre-hearing conferences: December 9, 2004	1 session
December 20, 2004	1 session

Two (2) Pre-hearing sessions with the Panel @ \$1,200.00	= \$2,400.00
Pre-hearing conferences: July 8, 2004	1 session
January 13, 2005	1 session

Six (6) Hearing sessions @ \$1,200.00	= \$7,200.00
Hearing Dates: April 19, 2005	2 sessions
April 20, 2005	2 sessions
April 21, 2005	2 sessions

Total Forum Fees	= \$10,500.00
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The Panel has assessed the total forum fees of \$10,500.00 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:

<u>Initial Filing Fee</u>	= \$ 600.00
<u>Total Fees</u>	= \$ 600.00
<u>Less payments</u>	= \$ 600.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent is solely liable for:

Member Fees	= \$ 8,550.00
Forum Fees	= \$ 10,500.00
Total Fees	= \$ 19,050.00
Less payments	= \$ 19,050.00
Balance Due NASD Dispute Resolution	= \$ 0.00

ARBITRATION PANEL

Barry B. Globerman, Esq.	-	Public Arbitrator, Presiding Chairperson
Jeffrey R. Fuller, J.D.	-	Public Arbitrator
Andrew F. Greitz, Jr.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/	08/01/05
_____ Barry B. Globerman, Esq. Public Arbitrator, Presiding Chairperson	_____ Signature Date
/s/	08/01/05
_____ Jeffrey R. Fuller, J.D. Public Arbitrator	_____ Signature Date
/s/	08/02/05
_____ Andrew F. Greitz, Jr. Non-Public Arbitrator	_____ Signature Date

08/02/2005

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

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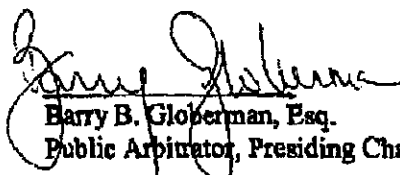
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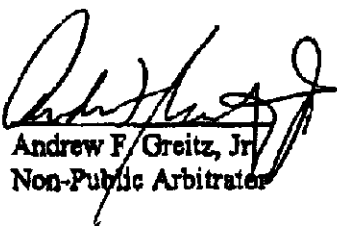
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Signature Date

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