

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:
William S. Calvert, Claimant v. Goldman, Sachs & Co., Respondent

Case Number: 04-00952

Hearing Site: Los Angeles, California

Nature of the Dispute: Associated Person v. Member

REPRESENTATION OF PARTIES

For Claimant:

Rodney J. Heggy, Esq.
Federman & Sherwood
Oklahoma City, Oklahoma

For Respondent:

Nicole A. Barrett, Esq.
Sullivan & Cromwell LLP
New York, New York

CASE INFORMATION

Statement of Claim filed: February 12, 2004

Claimant's Uniform Submission Agreement signed: not dated

Statement of Answer filed by Respondent: July 12, 2004

CASE SUMMARY

Claimant alleged breach of contract and violation of the public policy of the state of California, involving Respondent's failure to deliver Claimant's stock in Goldman, Sachs & Co. or the cash equivalent.

Respondent denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim.

RELIEF REQUESTED

Claimant requested \$820,710.00 in compensatory damages, unspecified interest, and costs, including attorney's fees.

Respondent requested dismissal of the Claimant's Statement of Claim in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent did not file with the NASD Dispute Resolution a properly executed submission agreement but is required to submit to arbitration pursuant to the Code and, having answered the claim, is bound by the determination of the Panel on all issues submitted.

On December 18, 2003, Claimant and Claimant's counsel signed a Waiver Agreement expressly waiving *any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.*

Pursuant to the Code of Arbitration Procedure IM-10100, the waiver of the Claimant shall constitute and operate as a waiver for all member firms and associated persons (including terminated or otherwise inactive member firms or associated persons) against whom the Claim has been filed.

On April 12, 2004, Respondent filed a Motion to Decline Jurisdiction seeking to refer the claim to the New York Stock Exchange. On May 3, 2004, Claimant filed his Objection to Respondent's Motion to Decline Jurisdiction. On September 20, 2004, Respondent filed a Supplemental Memorandum in Support of its Motion to Decline Jurisdiction, and on September 29, 2004, Claimant filed a Second Brief Regarding NASD Jurisdiction. On October 13, 2004, the Panel and the parties convened telephonically to allow oral argument on Respondent's motion. After due deliberation and consideration, the Panel granted Respondent's Motion to Decline Jurisdiction on October 13, 2004.

The parties 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, testimony, and evidence presented during the telephonic conferences, the Panel made the following determination:

- 1) Respondent's Motion to Decline Jurisdiction is granted.
- 2) The parties shall bear their respective costs, including attorney's fees.
- 3) All other relief requested and not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 375.00
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Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm Goldman, Sachs & Co. is a party and the following fees are assessed:

Member Surcharge	= \$ 2,250.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$ 4,000.00
Total Member Fees	= \$ 7,000.00

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Panel. The following fees are assessed:

2 Pre-hearing conference sessions with the Panel @ \$1,200.00/session	= \$ 2,400.00
Pre-hearing conferences: August 31, 2004	1 session
October 13, 2004	1 session
Total Forum Fees	= \$ 2,400.00

1. The Panel assessed \$ 1,200.00 of the forum fees to Claimant.
2. The Panel assessed \$ 1,200.00 of the forum fees to Respondent.

Fee Summary

1. Claimant is charged with the following fees and costs:

Initial Filing Fee	= \$ 375.00
Forum Fees	= \$ 1,200.00
Total Fees	= \$ 1,575.00
Less payments	= \$(1,575.00)
Balance Due NASD Dispute Resolution	= \$ 0.00

2. Respondent is charged with the following fees and costs:

Member Fees	= \$ 7,000.00
Forum Fees	= \$ 1,200.00
Total Fees	= \$ 8,200.00
Less payments	= \$(3,000.00)
Balance Due NASD Dispute Resolution	= \$ 5,200.00

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

ARBITRATION PANEL

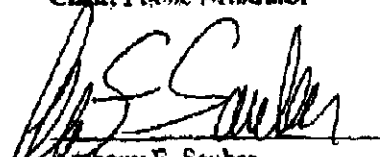
James M. Donovan, Esq.
Anthony F. Sauber
Thomas J. Doherty

Public Arbitrator, Presiding Chair
Public Arbitrator
Non-Public Arbitrator

Concurring Arbitrators' Signatures

James M. Donovan, Esq.
Chair, Public Arbitrator

Signature Date


Anthony F. Sauber
Public Arbitrator

10/14/04
Signature Date

Thomas J. Doherty
Non-Public Arbitrator

Signature Date

10/15/04
Date of Service

ARBITRATION PANEL

James M. Donovan, Esq.
Anthony F. Sauber
Thomas J. Doherty

- Public Arbitrator, Presiding Chair
- Public Arbitrator
- Non-Public Arbitrator

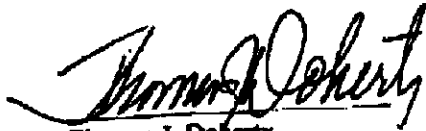
Concurring Arbitrators' Signatures:

James M. Donovan, Esq.
Chair, Public Arbitrator

Signature Date

Anthony F. Sauber
Public Arbitrator

Signature Date


Thomas J. Doherty
Non-Public Arbitrator

10/14/04
Signature Date


10/15/04
Date of Service

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James M. Donovan, Esq.
Anthony F. Sauber
Thomas J. Doherty

Public Arbitrator, Presiding Chair
Public Arbitrator
Non-Public Arbitrator

Concurring Arbitrators' Signatures


James M. Donovan, Esq.
Chair, Public Arbitrator

18 October 2004
Signature Date

Anthony F. Sauber
Public Arbitrator

Signature Date

Thomas J. Doherty
Non-Public Arbitrator

Signature Date

10/18/04
Date of Service