

Award
NASD Dispute Resolution

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

Case Number: 04-01816

Hearing Site: San Francisco, California

Nature of the Dispute: Associated Person vs. Member

REPRESENTATION OF PARTIES

For Claimant:

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

For Respondent:

Robin D. Fessel, Esq.
Sullivan & Cromwell LLP
New York, New York

CASE INFORMATION

Statement of Claim filed: March 16, 2004

Claimant's Uniform Submission Agreement filed: March 16, 2004

Statement of Answer filed by Respondent: July 12, 2004

CASE SUMMARY

Claimant alleged that when he terminated his employment with Respondent, Respondent unlawfully retained company stock that he was entitled to under his compensation agreement with Respondent. The allegations involved Respondent's 1999 initial public offering.

Respondent denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested \$814,880.00 in compensatory damages, interest, forum fees, and 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, appeared and testified at the hearing is bound by the determination of the Panel on all issues submitted.

On March 1, 2004, 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 8, 2004, Respondent filed a Motion to Decline Jurisdiction. On May 10, 2004, Claimant filed an objection to the aforementioned motion. The panel requested and the parties provided supplemental briefs on their respective positions. On September 23, 2004, the Panel held a telephonic conference with the parties and, after deliberating in executive session, denied the motion.

On November 5, 2004, Respondent filed a Motion to Reconsider the Motion to Decline Jurisdiction. On November 19, 2004, Claimant filed an objection to the aforementioned motion. On December 7, 2004, the Panel held a telephonic conference with the parties and, after deliberating in executive session, denied the motion.

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

The Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondent is liable to and shall pay Claimant the sum of \$279,384.00 in compensatory damages.
- 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
<u>Hearing Process Fee</u>	<u>= \$ 4,000.00</u>
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 Chair or the parties and the Panel. The following fees are assessed:

(1) Pre-hearing conference session with a single arbitrator @ \$ 450.00/session	= \$ 450.00
Pre-hearing conference: January 10, 2005 1 session	

(4) Pre-hearing conference sessions with the Panel @ \$1,200.00/session = \$ 4,800.00

Pre-hearing conferences: August 16, 2004 1 session
 September 23, 2004 1 session
 December 7, 2004 1 session
 January 10, 2005 1 session

(5) Hearing sessions @ \$1,200.00/session = \$ 6,000.00

Hearings: January 25, 2005 2 sessions
 January 26, 2005 2 sessions
 January 27, 2005 1 session

Total Forum Fees = **\$11,250.00**

1. The Panel assessed \$5,625.00 of the forum fees to Claimant.
2. The Panel assessed \$5,625.00 of the forum fees to Respondent.

Fee Summary

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

Initial Filing Fee	= \$ 375.00
<u>Forum Fees</u>	<u>= \$ 5,625.00</u>
Total Fees	= \$ 6,000.00
<u>Less payments</u>	<u>= \$(1,575.00)</u>
Balance Due NASD Dispute Resolution	= \$ 4,425.00

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

Member Fees	= \$ 7,000.00
<u>Forum Fees</u>	<u>= \$ 5,625.00</u>
Total Fees	= \$12,625.00
<u>Less payments</u>	<u>= \$ (7,000.00)</u>
Balance Due NASD Dispute Resolution	= \$ 5,625.00

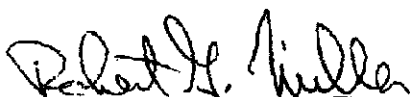
All balances are payable to NASD Dispute Resolution and are due upon the receipt of the Award pursuant to Rule 10330(g) of the Code.

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ARBITRATION PANEL

Robert G. Miller	-	Non-Public Arbitrator, Presiding Chair
Greg N. Tcherkoyan	-	Non-Public Arbitrator
Deborah C. Bernot, CFP	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Robert G. Miller
Chair, Non-Public Arbitrator

2/17/05
Signature Date

Greg N. Tcherkoyan
Non-Public Arbitrator

Signature Date

Deborah C. Bernot, CFP
Non-Public Arbitrator

Signature Date

2/18/05
Date of Service

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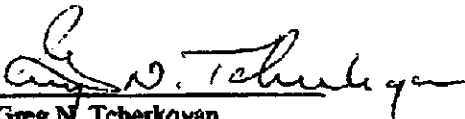
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