
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Morgan Keegan & Co., Inc.

Case Number: 04-02111

Name of the Respondent
Michael J. Fagan, Sr.

Hearing Site: New Orleans, LA

Nature of the Dispute: Member vs. Associated Person.

REPRESENTATION OF PARTIES

For Morgan Keegan & Co., Inc. ("Morgan"), hereinafter referred to as "Claimant": Shea O'Brien Hicks, Esq., Staff Attorney, Morgan, Memphis, TN.

Michael J. Fagan, Sr. ("Fagan"), hereinafter referred to as "Respondent", appeared pro se.

CASE INFORMATION

Statement of Claim filed on or about: March 29, 2004.

Claimant signed the Uniform Submission Agreement: March 26, 2004.

Statement of Answer and Counterclaim filed by Respondent on or about: June 14, 2004.

Respondent signed the Uniform Submission Agreement: June 14, 2004.

CASE SUMMARY

Claimant asserted that Respondent failed to pay sums due to Claimant pursuant to a promissory note.

Unless specifically admitted in his Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses. In his Counterclaim, Respondent asserted the following causes of action: breach of contract; wrongful termination; violation of detrimental reliance law; and, defamation of character. The causes of action relate to the termination of Respondent's employment with Claimant.

RELIEF REQUESTED

Claimant requested compensatory damages of \$89,273.58, interest at the rate of 10%, costs, and attorneys' fees, and such additional and further relief as may be deemed just and appropriate.

Respondent requested compensatory damages of \$466,000.00, unspecified damages for wrongful termination causing defamation of character, attorneys' fees, costs, and dismissal of the Statement of Claim.

OTHER ISSUES CONSIDERED AND DECIDED

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, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), the undersigned arbitrators (the "Panel") have decided in full and final resolution of the issues submitted for determination as follows:

Respondent is liable and shall pay to Claimant compensatory damages in the sum of \$65,348.28, plus pre-judgment interest at the rate of 10% per annum accruing from October 14, 2002 until the date of payment of the Award.

Respondent is liable and shall pay to Claimant compensatory damages in the sum of \$23,925.30, plus pre-judgment interest at the rate of 10% per annum accruing from June 23, 2003 until the date of payment of the Award.

Respondent is liable and shall pay to Claimant attorneys' fees in the sum of \$5,000.00 pursuant to the terms of the promissory note between Claimant and Respondent.

Respondent is liable and shall pay to Claimant travel costs in the sum of \$941.28.

Respondent is liable and shall pay to Claimant the sum of \$5,600.00 representing reimbursement of the NASD filing fees and costs previously paid by Claimant to NASD Dispute Resolution.

Respondent's Counterclaim is dismissed, with prejudice.

Any and all claims for relief not specifically addressed herein 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 = \$1,000.00

The Counterclaim filing fee was waived by the Panel.

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, Claimant Morgan is a member firm and a party.

Member surcharge = \$1,100.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$2,750.00

Total Member Fees = \$4,600.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

No adjournment fees were assessed during these proceedings.

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 assessed during these proceedings.

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 assessed during these proceedings.

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A 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 a single arbitrator @ \$450.00/session	= \$ 450.00
Pre-hearing conference: February 18, 2005 1 session	
One (1) Pre-hearing session with the Panel @ \$1,125.00/session	= \$1,125.00
Pre-hearing conference: September 13, 2004 1 session	
Two (2) Hearing sessions @ \$1,125.00/session	= \$2,250.00
Hearing Dates: February 28, 2005 2 sessions	
<hr/>	
Total Forum Fees	= \$3,825.00

The Panel has assessed the total forum fees of \$3,825.00 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 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 during this proceeding.

Fee Summary

Claimant is solely liable for:

Initial Filing Fee	= \$ 1,000.00
<u>Member Fees</u>	= \$ 4,600.00
Total Fees	= \$ 5,600.00
<u>Less payments</u>	= \$ 5,300.00
Balance Due NASD Dispute Resolution	= \$ 300.00

Respondent is solely liable for:

<u>Forum Fees</u>	= \$ 3,825.00
Total Fees	= \$ 3,825.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 3,825.00

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

ARBITRATION PANEL

Robert E. Graves	-	Non-Public Arbitrator, Presiding Chairperson
William R. Hanlein	-	Non-Public Arbitrator
Robert J. Eitel	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/
Robert E. Graves
Non-Public Arbitrator, Presiding Chairperson

Signature Date

/s/
William R. Hanlein
Non-Public Arbitrator

Signature Date

/s/
Robert J. Eitel
Non-Public Arbitrator

Signature Date

March 2, 2005
Date of Service (For NASD Dispute Resolution office use only)

NASD Dispute Resolution
Arbitration No. 04-02111
Award Page 4 of 4

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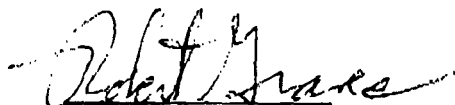
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William R. Hanlein	-	Non-Public Arbitrator
Robert J. Eitel	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Robert E. Graves
Non-Public Arbitrator, Presiding Chairperson

3/2/05
Signature Date

William R. Hanlein
Non-Public Arbitrator

Signature Date

Robert J. Eitel
Non-Public Arbitrator

Signature Date

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Concurring Arbitrators' Signatures

Robert E. Graves
Non-Public Arbitrator, Presiding Chairperson

Signature Date

William R. Hanlein
William R. Hanlein
Non-Public Arbitrator

May 2 - 2005
Signature Date

Robert J. Eitel
Non-Public Arbitrator

Signature Date

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

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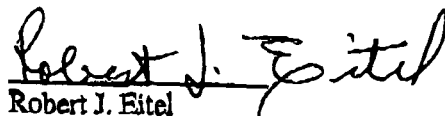
Concurring Arbitrators' Signatures

Robert E. Graves
Non-Public Arbitrator, Presiding Chairperson

Signature Date

William R. Hanlein
Non-Public Arbitrator

Signature Date


Robert J. Eitel
Non-Public Arbitrator

3/3/05
Signature Date

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