

**Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Ryan Beck & Co., Inc. (Claimant) vs. Peter W. Adolph (Respondent)

Case Number: 04-05626

Hearing Site: New York, New York

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Nature of the Dispute: Member vs. Associated Person

**REPRESENTATION OF PARTIES**

Claimant Ryan Beck & Co., Inc. ("Ryan Beck") hereinafter referred to as "Claimant":  
David W. Schmidt, Esq., Lubiner & Schmidt, Cranford, NJ.

Respondent Peter W. Adolph ("Adolph") hereinafter referred to as "Respondent": Mr.  
Gerald Resnick, Esq., and Neil H. Deutsch, Esq., Deutsch Atkins, P.C., Hackensack,  
NJ.

**CASE INFORMATION**

Statement of Claim filed on or about: August 6, 2004.

Claimant signed the Uniform Submission Agreement: May 28, 2004.

Statement of Answer and Counterclaim filed by Respondent on or about: September 24,  
2004.

Respondent signed the Uniform Submission Agreement: September 17, 2004.

**CASE SUMMARY**

Claimant asserted the following causes of action: breach of 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, intentional interference with contract, intentional and negligent interference with  
prospective economic advantage; fraud, fraud in the inducement, conversion, breach of  
implied covenant of good faith and fair dealing, unfair business practices, defamation, and  
intentional and negligent infliction of emotional distress.

**RELIEF REQUESTED**

Claimant requested compensatory damages in the amount of \$69,586.48, plus costs of

collection, including filing fees, costs of arbitration proceeding, attorneys' fees and such other relief as the arbitrators feel is just and proper.

Respondent requested compensatory damages in the amount of \$2,422,000.00, plus costs of collection, including filing fees, costs of arbitration proceeding, attorneys' fees and such other relief as the arbitrators feel is just and proper.

### **OTHER ISSUES CONSIDERED AND 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.

### **AWARD**

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent Adolph is liable for and shall pay to Claimant compensatory damages in the amount of \$69,586.48 plus interest at the rate of 5% per annum from January 1, 2004 until June 30, 2006.
2. Respondent Adolph is liable for and shall pay to Claimant attorneys' fees in the amount of \$75,714.73 pursuant to the parties' promissory note agreement.
3. Respondent Adolph is liable for and shall pay to Claimant costs in the amount of \$1,000.00 to reimburse Claimant for the filing fee previously paid to NASD Dispute Resolution.
4. Respondent's counter-claim is denied in its entirety.
5. Any and all relief not specifically addressed herein is denied.

### **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	= \$1,000.00
Counter claim filing fee	= \$ 500.00

#### **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 events giving rise to the dispute. Accordingly, Ryan Beck & Co., Inc. is a party.

Member surcharge	= \$1,100.00
Pre-hearing process fee	= \$ 750.00

Hearing process fee = \$5,000.00

**Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

August 3-4, 2005 adjournment by Respondent = Waived

**Forum Fees and Assessments**

The Panel has assessed forum fees for each session conducted or each decision rendered on a discovery-related motion on the papers. 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:

One (1) Pre-hearing session with a single arbitrator @ \$450.00 = \$ 450.00  
Pre-hearing conference: July 6, 2005 1 session

Two (2) Pre-hearing sessions with Panel @ \$1,200.00 = \$2,400.00  
Pre-hearing conferences: January 3, 2005 1 session  
August 4, 2005 1 session

Six (6) Hearing sessions @ \$1,200.00 = \$7,200.00  
Hearing Dates: April 12, 2006 2 sessions  
April 13, 2006 2 sessions  
June 6, 2006 2 sessions

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Total Forum Fees = \$10,050.00

1. The Panel has assessed \$10,050.00 of the forum fees to Respondent.

**Fee Summary**

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 1,000.00
Member Fees	= \$ 6,850.00
Total Fees	= \$ 7,850.00
Less payments	= \$ 8,600.00
Refund Due Claimant	= \$ 750.00

*As stated in the "Award" section above, Respondent shall reimburse Claimant for the filing fee previously paid to NASD Dispute Resolution.*

2. Respondent is solely liable for:

Filing Fee	= \$ 500.00
Forum Fees	= \$10,050.00
Total Fees	= \$10,550.00
Less payments	= \$ 1,700.00
Balance Due NASD Dispute Resolution	= \$ 8,850.00

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

**ARBITRATION PANEL**

Fred S. Pieroni	-	Public Arbitrator, Presiding Chairperson
Frank M. Suttell	-	Public Arbitrator
Dean Kois	-	Non-Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.

**Concurring Arbitrators' Signatures**

Fred S. Pieroni  
Fred S. Pieroni,  
Public Arbitrator, Presiding Chairperson

07.10.06  
Signature Date

Frank M. Suttell  
Public Arbitrator

Signature Date

Dean Kois  
Non-Public Arbitrator

Signature Date

July 12, 2006  
Date of Service (For NASD Dispute Resolution use only)

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Public Arbitrator, Presiding Chairperson

Signature Date

Frank M. Suttell  
Frank M. Suttell  
Public Arbitrator

7/11/06  
Signature Date

Dean Kois  
Non-Public Arbitrator

Signature Date

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