

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Brian Goldstein (Claimant) v. Advest, Inc. and Robert Procida (Respondents)

Case Number: 04-05794

Hearing Site: New York, New York

Nature of the Dispute: Associated Person vs. Member and Associated Person.

REPRESENTATION OF PARTIES

Claimant Brian Goldstein ("Goldstein") hereinafter referred to as "Claimant" appeared *pro se*.

Respondents Advest, Inc. ("Advest") and Robert Procida ("Procida") hereinafter collectively referred to as "Respondents": Michael Kalmus, Esq., New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: August 13, 2004.

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

Joint Statement of Answer filed by Respondents on or about: October 18, 2004.

Respondent Advest signed the Uniform Submission Agreement: October 19, 2004.

Respondent Procida did not sign the Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: failure to pay owed compensation; and libel on Form U-5.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$25,000.00 and expungement of the Form U-5.

Respondents requested that the Panel dismiss the claim in its entirety and such other and further relief the Panel deems just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Procida did not file with NASD Dispute Resolution a properly executed Uniform Submission Agreement but is required to submit to arbitration pursuant to the Code and, having answered the claim, and appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

AWARD

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

1. Claimant's claims are dismissed in their entirety.
2. 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 = \$125.00

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 persons at the time of the events giving rise to the dispute. Accordingly, Advest, Inc. is a party.

Member surcharge = \$425.00

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:

One (1) Pre-hearing session with the sole arbitrator @ \$450.00 = \$450.00

Pre-hearing conference: January 24, 2005 1 session

One (1) Hearing sessions @ \$450.00 = \$450.00

Hearing Dates: May 4, 2005 1 session

Total Forum Fees = \$900.00

1. The Panel has assessed \$450.00 of the forum fees against Claimant.

2. The Panel has assessed \$450.00 of the forum fees jointly and severally against Respondents.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$125.00
<u>Forum Fees</u>	<u>= \$450.00</u>
Total Fees	= \$575.00
<u>Less payments</u>	<u>= \$575.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

2. Respondent Advest is solely liable for:

<u>Member Fees</u>	<u>= \$425.00</u>
Total Fees	= \$425.00
<u>Less payments</u>	<u>= \$425.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents are jointly and severally liable for:

<u>Forum Fees</u>	<u>= \$450.00</u>
Total Fees	= \$450.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution	= \$450.00

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

ARBITRATOR

Lilian M. Leong, Esq.

Sole Public Arbitrator

Arbitrator's Signature

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.

Lilian Leong
Lilian M. Leong, Esq.
Sole Public Arbitrator

May 24, 2005
Signature/Date

MAY 25, 2005
Date of Service (For NASD Dispute Resolution use only)