

Award
NASD Dispute Resolution

COPY

In the Matter of the Arbitration Between:

PIM Financial Services, Inc., Claimant v. Phuong L. Huynh a/k/a Lana Huynh, Respondent

Case Number: 04-05815

Hearing Site: San Diego, California

Nature of the Dispute: Member v. Associated Person

REPRESENTATION OF PARTIES

For Claimant:

Mary Limoges
PIM Financial Services, Inc.
San Marcos, California

For Respondent:

Phuong L. Huynh a/k/a Lana Huynh
In Propria Persona
San Diego, California

CASE INFORMATION

Statement of Claim filed on or about: August 17, 2004

Claimant's Uniform Submission Agreement signed: August 31, 2004

CASE SUMMARY

Claimant alleged breach of contract, breach of the implied covenant of good faith and fair dealing, and common law fraud/intentional misrepresentation.

Respondent did not file a Statement of Answer.

RELIEF REQUESTED

Claimant requested indemnity for costs incurred in defending Respondent in two securities arbitrations in the amount of \$34,425.00, pre-award and post-award interest at the rate of 10% from the date of losses, exemplary damages, and costs, including attorney's fees.

OTHER ISSUES CONSIDERED AND DECIDED

On November 9, 2004, Claimant 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 *NASD Code of Arbitration Procedure* (Code) 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.

Respondent 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 is bound by the determination of the Arbitrator on all issues submitted.

On August 31, 2005, Claimant filed a request for a default judgment against Respondent. Respondent did not file a response to the motion. On September 19, 2005, the Arbitration Chairperson ruled that the telephonic hearing scheduled for November 14, 2005 would proceed as scheduled.

On November 14, 2005, a telephonic hearing was conducted. In attendance were the Arbitration Chairperson and Claimant. Respondent did not attend the hearing. However, upon review of the file and the representations made on behalf of the Claimant, the undersigned arbitrator determined that Respondent has been properly served with the Statement of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without said Respondent present, in accordance with the Code.

The parties agreed that a handwritten, signed Award may be entered.

AWARD

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

- 1) Respondent is liable to and shall pay Claimant \$34,425.00 in compensatory damages.
- 2) Respondent is liable to and shall pay Claimant \$11,270.00 in interest.
- 3) Claimant's request for exemplary damages is denied.

- 4) The parties shall bear their respective costs, including attorney's fees.
- 5) 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	= \$ 1,000.00
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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 PIM Financial Services, Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 875.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$ 1,000.00</u>
Total Member Fees	= \$ 2,625.00

Forum Fees and Assessments

The Arbitrator has assessed forum fees for each session conducted. A session is any meeting between the parties and the arbitrator, including a pre-hearing conference with the arbitrator, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing conference session with a single arbitrator @ \$450.00/session	= \$ 450.00
Pre-hearing conference: August 11, 2005	1 session

One (1) Hearing session @ \$450.00/session	= \$ 450.00
Hearing: November 14, 2005	1 session

Total Forum Fees	= \$ 900.00
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1. The Arbitrator assessed \$450.00 of the forum fees to Claimant.
2. The Arbitrator assessed \$450.00 of the forum fees to Respondent.

Fee Summary

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

Initial Filing Fee	= \$ 1,000.00
Member Fees	= \$ 2,625.00
<u>Forum Fees</u>	= \$ 450.00
Total Fees	= \$ 4,075.00
<u>Less payments</u>	= \$(1,550.00)
Balance Due NASD Dispute Resolution	= \$ 2,525.00

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

<u>Forum Fees</u>	= \$ 450.00
Balance Due NASD Dispute Resolution	= \$ 450.00

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.

ARBITRATOR

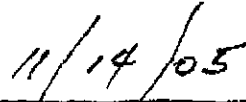
Audrey H. Ruben

Public Arbitrator, Presiding Chair

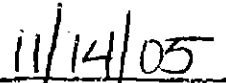
Arbitrator's Signature



Audrey H. Ruben
Chair, Public Arbitrator



Signature Date



Date of Service