

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

---

In the Matter of the Arbitration Between:

Name of the Claimant

Bradley J. Albert

Case Number: 04-05891

Name of the Respondents

Princor Financial Services Corporation, and  
Princor Financial Group

Hearing Site: De Moines, Iowa

---

**NATURE OF THE DISPUTE**

Associated Person v. Member Firm and Non-Member Firm without Contract to Arbitrate

**REPRESENTATION OF PARTIES**

Claimant Bradley J. Albert, hereinafter referred to as "Claimant": John J. Miller, Esq., Law Office of John J. Miller, P.C., Kansas City, Missouri.

Respondents Princor Financial Group ("PFG") and Princor Financial Services Corporation ("PFSC"), hereinafter collectively referred to as "Respondents": Terri L. Combs, Esq., of the firm of Faegre & Benson LLP, located in Des Moines, Iowa.

**CASE INFORMATION**

Statement of Claim filed: October 5, 20004.

Claimant signed the Uniform Submission Agreement: August 18, 2004.

Claimant's Amendment to the Statement of Claim filed on: January 19, 2005.

Claimant's Hearing Brief filed on: December 29, 2005.

Statement of Answer filed by Respondent PFSC and PFG on: December 28, 2004.

Respondent PFSC signed the Uniform Submission Agreement: November 10, 2004.

Respondents' Response to the Amended Statement of Claim filed: January 28, 2005.

Respondents' Pre-Hearing Brief filed on: January 9, 2006.

Respondent PFG did not file an executed Uniform Submission Agreement and declined to submit to arbitration.

**CASE SUMMARY**

In his Statement of Claim, Claimant alleged wrongful termination; defamation; and tortious interference with business advantage or expectancy. These causes of action related to actions taken

against Claimant by agents of Respondent PFSC both before and after the termination of his employment at PFSC.

In their Answer, Respondents generally denied the allegations and stated that Claimant was an at-will employee and his termination was justified, and that Respondent in no way defamed Claimant. Respondents asserted the following affirmative defenses:

1. Neither PFG nor PFSC ever served as Claimant's employer and the claims asserted based upon an alleged employment relationship fail as a matter of law;
2. Respondents' statements on Claimant's U-5 were protected as a matter of law;
3. There is a lack of defamatory meaning;
4. Claimant's libel and slander claims are barred;
5. Claimant's claims are barred by the applicable statutes of limitations;
6. Claimant's losses in connection with his termination were caused by Claimant's actions, not that of Respondents;
7. Claimant has failed to show damages;
8. Claimant failed to mitigate his damages;
9. Punitive damages are not available as a matter of law; and,
10. There is an absence of fault and lack of intent.

**RELIEF REQUESTED**

Claimant Bradley J. Albert requested:

Compensatory Damages (Libel and interference with business advantage or expectancy)	\$ 2,000,000.00
Compensatory Damages (Slander)	\$ 100,000.00
Compensatory Damages (Wrongful termination)	\$ 100,000.00
Emotional Distress	\$ 50,000.00
Punitive Damages	\$10,000,000.00
Interest	Unspecified
Attorneys' Fees	Unspecified
Other Costs	Unspecified
Other Monetary/Non-Monetary Relief if any:	NASD should permit him to take the Series 24 licensing examination without sponsorship of a broker/dealer.

On January 19, 2005, Claimant amended his claim and, in addition to the above damages requested an award of actual, compensatory and consequential damages of \$100,000.00; expungement of false and defamatory statements from his CRD; an award of his costs and expenses; and such other relief as the Panel deemed just and proper.

Respondents PFSC and PFG requested that the Statement of Claim be dismissed, and that Claimant be ordered to reimburse Respondents for their costs in defending this arbitration proceeding.

### **OTHER ISSUES CONSIDERED AND DECIDED**

Respondent Princor Financial Group did not file a properly executed submission to arbitration with NASD Dispute Resolution, and is not required to submit to arbitration pursuant to the Code. In the absence of a voluntary submission, this matter proceeded without the participation of Princor Financial Group.

On or about April 22, 2005, Claimant withdrew his claim for intentional infliction of emotional distress.

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 pre-hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. The Claimant shall take nothing on the Claims and monetary requests asserted in the Statement of Claim, and such claims are dismissed in their entirety;
2. The Panel finds that Claimant was terminated for reasons not related to any securities issues or sales practices, but because in the employers opinion, they did not have a good working relationship;
3. The Panel orders Respondent Princor Financial Services Corporation to amend Claimant's Form U-5 to read that Claimant was "terminated" for the reason "At will/Management prerogative";
4. The Parties shall bear their own costs of arbitration, including any attorneys' fees, except for those sums specifically enumerated in this decision; and,
5. Any and all relief not specifically addressed herein, including punitive/treble damages, 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 = \$ 600.00

#### **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, Princor Financial Services Corporation is a party and the following

member fees are assessed:

Member surcharge	= \$ 3,750.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 5,500.00

**Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

November 9-11, 2005 adjournment by Respondent PFSC	= \$ 1,200.00
--	---------------

**Forum Fees and Assessments**

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

Two (2) Pre-hearing sessions with Panel @ \$1,200.00	= \$ 2,400.00
Pre-hearing conferences: March 14, 2005 1 session	
October 13, 2005 1 session	
Eight (8) Hearing sessions @ \$ 1,200.00	= \$ 9,600.00
Hearing Dates: February 8, 2006 3 sessions	
February 9, 2006 3 sessions	
February 10, 2006 2 sessions	
<hr/> Total Forum Fees	<hr/> = \$12,000.00

The Panel has assessed \$6,000.00 of the forum fees to Claimant Bradley J. Albert and the remaining \$6,000.00 of the forum fees to Respondent Princor Financial Services Corporation.

**SEE SUMMARY**

Claimant Bradley J. Albert is solely liable for:

Initial Filing Fee	= \$ 600.00
<u>Forum Fees</u>	<u>= \$ 6,000.00</u>
Total Fees	= \$ 6,600.00
<u>Less payments</u>	<u>= \$ 1,800.00</u>
Balance Due NASD Dispute Resolution	= \$ 4,800.00

Respondent Princor Financial Services Corporation is solely liable for:

Member Fees	= \$10,000.00
Adjournment Fee	= \$ 1,200.00
<u>Forum Fees</u>	<u>= \$ 6,000.00</u>
Total Fees	= \$17,200.00
<u>Less payments</u>	<u>= \$11,200.00</u>
Balance Due NASD Dispute Resolution	= \$ 6,000.00

NASD Dispute Resolution

Arbitration No. 04-05891

Award Page 5

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

ARBITRATION PANEL

Peter Ordower, Esq. - Public Arbitrator, Presiding Chairperson

Kathleen Hoey Gorr - Public Arbitrator

Donald R. Dwyer - Non-Public Arbitrator

Concurring Arbitrators' Signatures

Peter Ordower, Esq.

Public Arbitrator, Presiding Chairperson

2/14/06  
Signature DateKathleen Hoey Gorr  
Public ArbitratorSignature DateDonald R. Dwyer  
Non-Public ArbitratorSignature Date2/17/06 KMA  
Date of Service (For NASD Dispute Resolution office use only)

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

**ARBITRATION PANEL**

Peter Ordower, Esq. - Public Arbitrator, Presiding Chairperson  
Kathleen Hoey Gorr - Public Arbitrator  
Donald R. Dwyer - Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

\_\_\_\_\_  
Peter Ordower, Esq.  
Public Arbitrator, Presiding Chairperson

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Kathleen Hoey Gorr  
Public Arbitrator

\_\_\_\_\_  
Signature Date

Donald R. Dwyer  
Donald R. Dwyer  
Non-Public Arbitrator

Feb. 15, 2006  
Signature Date

2/17/06 man  
Date of Service (For NASD Dispute Resolution office use only)

NASD Dispute Resolution, Inc.  
**RECEIVED**  
FEB 17 2006