

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Robert A. Leo (Claimant) vs. MFS Fund Distributors, Inc. (Respondent)

Case Number: 04-06344

Hearing Site: New York, New York

Nature of the Dispute: Associated Person vs. Member.

REPRESENTATION OF PARTIES

Claimant Robert A. Leo hereinafter referred to as "Claimant": Laura S. Schnell, Esq., Eisenberg & Schnell LLP, New York, NY.

Respondent MFS Fund Distributors, Inc. hereinafter referred to as "Respondent": Wilfred J. Benoit, Esq., Goodwin Procter LLP, Boston, MA.

CASE INFORMATION

Statement of Claim filed on or about: September 2, 2004.

Claimant signed the Uniform Submission Agreement: August 31, 2004.

Statement of Answer filed by Respondent on or about: March 10, 2005.

Respondent signed the Uniform Submission Agreement: March 2, 2005.

CASE SUMMARY

Claimants asserted the following causes of action: breach of express or implied contract, violation of New York Labor Law, violations of the Age Discrimination in Employment Act, the New York State Human Rights Law, Executive Law and the Administrative Code of the City of New York, age discrimination, quantum meruit, unjust enrichment, promissory estoppel, and restitution.

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

RELIEF REQUESTED

Claimant requested compensatory damages in an amount of no less than \$330,000.00 plus interest, liquidated damages of twenty-five percent of the total amount of unpaid compensation found to be due under the New York Labor Law, liquidated damages under the Age Discrimination in Employment Act in an amount of \$330,000.00, attorneys' fees, costs, expenses, and such other and further relief as the arbitrators deem just and proper.

Respondent requested the dismissal of the Statement of Claim in its entirety and an award of attorneys' fees.

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

1. Claimant is entitled to an award in the amount of Claimant's 2003 bonus from Respondent. Therefore, Respondent is liable for and shall pay to Claimant compensatory damages in the amount of \$130,000.00, plus interest at the rate of 9% per annum from February 19, 2004 until the award is paid.
2. Respondent is liable for and shall pay to Claimant attorneys' fees in the amount of \$21,550.00. The Panel granted attorneys' fees based upon the parties' requests for attorneys' fees in their pleadings.
3. Claimant's statutory discrimination claims are denied in their entirety.
4. Respondent's request for attorneys' fees 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	= \$ 375.00
--------------------------	-------------

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, MFS Fund Distributors, Inc. is a party.

Member surcharge	= \$ 2,250.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 4,000.00
Total Member fees	= \$ 7,000.00

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) Decision on discovery-related motion on the papers
with (1) One arbitrator @ \$200.00 = \$ 200.00

One (1) Pre-hearing session with Panel @ \$1,200.00/session = \$ 1,200.00
Pre-hearing conference: July 20, 2005 1 session

Three (3) Hearing sessions @ \$1,200.00/session = \$ 3,600.00
Hearing Dates: January 10, 2006 2 sessions
January 11, 2006 1 session

Total Forum Fees = \$ 5,000.00

1. The Panel has assessed \$5,000.00 of the forum fees to Respondent.

Fee Summary

1. Claimant is solely liable for:

<u>Initial Filing Fee</u>	= \$ 375.00
<u>Total Fees</u>	= \$ 375.00
<u>Less payments</u>	= \$ 1,575.00
<u>Refund Due to Claimant</u>	= \$ 1,200.00

2. Respondent is solely liable for:

<u>Member Fees</u>	= \$ 7,000.00
<u>Forum Fees</u>	= \$ 5,000.00
<u>Total Fees</u>	= \$ 12,000.00
<u>Less payments</u>	= \$ 7,000.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 5,000.00

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

ARBITRATION PANEL

Philip Levine, Esq.	-	Public Arbitrator, Presiding Chairperson
Robert Pincus, Esq.	-	Public Arbitrator
Arthur M. Handler, Esq.	-	Public Arbitrator

Concurring Arbitrators' Signatures

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.

Philip Levine, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Robert Pincus, Esq.
Public Arbitrator

Signature Date

Arthur M. Handler, Esq.
Public Arbitrator

Signature Date

JANUARY 26, 2004
Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

Philip Levine, Esq.	-	Public Arbitrator, Presiding Chairperson
Robert Pincus, Esq.	-	Public Arbitrator
Arthur M. Handler, Esq.	-	Public Arbitrator

Concurring Arbitrators' Signatures

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.

Philip Levine, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Robert Pincus, Esq.
Public Arbitrator

Signature Date



Arthur M. Handler, Esq.
Public Arbitrator



Signature Date

JANUARY 26, 2006
Date of Service (For NASD Dispute Resolution use only)