

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Investec (US) Incorporated f/k/a Investec Ernst & Co. (Claimant) v. William Julian (Respondent)

Case Number: 04-06614

Hearing Site: New York, New York

Nature of the Dispute: Member vs. Associated Person

REPRESENTATION OF PARTIES

Claimant, Investec (US) Incorporated f/k/a Investec Ernst & Co. ("Investec") hereinafter referred to as "Claimant": David W. Schmidt, Esq., Lubiner & Schmidt, Cranford, NJ.

Respondent, William Julian ("Julian") hereinafter referred to as "Respondent" did not enter an appearance in this matter.

CASE INFORMATION

Statement of Claim filed on or about: September 16, 2004.

Claimant signed the Uniform Submission Agreement: August 27, 2004.

Respondent did not submit a Statement of Answer or a signed Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: indemnification, trading errors, and collection of outstanding employee forgivable loan.

RELIEF REQUESTED

Claimant requested:

Compensatory Damages	\$ 284,298.82
Interest	Unspecified
Attorneys' Fees	Unspecified
Other Costs	Unspecified
Other Monetary Relief if any:	Unspecified

OTHER ISSUES CONSIDERED AND DECIDED

Upon review of the file and the representations made on behalf of the Claimant, the undersigned arbitrators (the "Panel") determined that Respondent Julian 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 NASD Code of Arbitration Procedure (the "Code").

Respondent Julian 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 Panel on all issues submitted.

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 is liable for and shall pay to Claimant the sum of \$16,527.82 as compensatory damages for an Employee Forgivable Loan, plus interest at the prevailing statutory rate in the State of New York from March 4, 2002 until the award is paid.
2. Respondent is liable for and shall pay to Claimant the sum of \$228,000.00 as compensatory damages for the Giannella Arbitration, plus interest at the prevailing statutory rate in the State of New York from July 26, 2004 until the award is paid.
3. Respondent is liable for and shall pay to Claimant the sum of \$29,297.63 as compensatory damages for the Hill Arbitration, plus interest at the prevailing statutory rate in the State of New York from January 27, 2004 until the award is paid.
4. Respondent is liable for and shall pay to Claimant the sum of \$7,270.60 for attorneys' fees and costs pursuant to the terms of the Employment Agreement and Sempra Energy Trading Corp. v. PG & E Texas VGM, L.P., 284 A.D.2d 253, 254, 728 N.Y.S.2d 16, 18 (App. Div. 1st Dept 2001).
5. Respondent is liable for and shall pay to Claimant the sum of \$1,000.00 to reimburse Claimant for the NASD filing fee.
6. 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

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, Investec is a party.

Member surcharge = \$ 1,700.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$ 2,750.00

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 Panel @ \$1,125.00 = \$ 1,125.00

Pre-hearing conference: February 18, 2005 1 session

One (1) Hearing session @ \$1,125.00 = \$ 1,125.00

Hearing Date: June 21, 2005 1 session

Total Forum Fees = \$ 2,250.00

1. The Panel has assessed \$2,250.00 of the forum fees to Respondent.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee = \$ 1,000.00

Member Fees = \$ 5,200.00

Total Fees = \$ 6,200.00

Less payments = \$ 7,325.00

Refund Due Claimant = \$ 1,125.00

2. Respondent is solely liable for:

Forum Fees = \$ 2,250.00

Total Fees = \$ 2,250.00

Less payments = \$ 0.00

Balance Due NASD Dispute Resolution = \$ 2,250.00

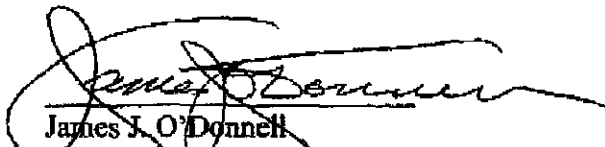
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

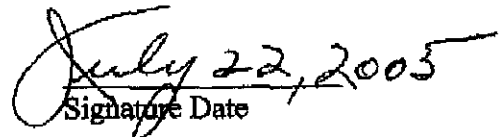
ARBITRATION PANEL

James J. O'Donnell	-	Non-Public Arbitrator, Presiding
Chairperson	-	
Paul Kanischak	-	Non-Public Arbitrator
Burton Fendelman	-	Non-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.


James J. O'Donnell
Non-Public Arbitrator, Presiding Chairperson

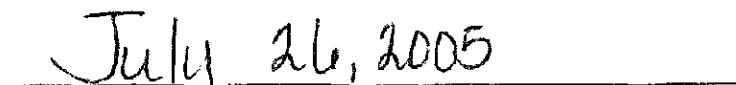

Signature Date

Paul Kanischak
Non-Public Arbitrator

Signature Date

Burton Fendelman
Non-Public Arbitrator

Signature Date


Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

James J. O'Donnell	-	Non-Public Arbitrator, Presiding Chairperson
Paul Kanischak	-	Non-Public Arbitrator
Burton Fendelman	-	Non-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.

James J. O'Donnell
Non-Public Arbitrator, Presiding Chairperson

Signature Date

Paul Kanischak
Non-Public Arbitrator

Signature Date



Burton Fendelman
Non-Public Arbitrator

7/25/05

Signature Date

July 26, 2005

Date of Service (For NASD Dispute Resolution use only)