

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Ryan Beck & Co., Inc. (Claimant) v. George Nikitovich (Respondent)

Case Number: 04-07106

Hearing Site: New York, New York

Nature of the Dispute: Member v. Associated Person

REPRESENTATION OF PARTIES

Claimant Ryan Beck & Co., Inc. ("Ryan Beck") hereinafter referred to as "Claimant": Kenneth O'Connor, Esq., Lubiner & Schmidt, Cranford, NJ.

Respondent George Nikitovich ("Nikitovich") hereinafter referred to as "Respondent": Randy Scott Zelin, Esq., Randy Scott Zelin, P.C., Westbury, NY.

CASE INFORMATION

Statement of Claim filed on or about: October 6, 2004.

Claimant signed the Uniform Submission Agreement: June 28, 2004.

Statement of Answer filed by Respondent on or about: January 4, 2005.

Respondent signed the Uniform Submission Agreement: October 18, 2004.

CASE SUMMARY

Claimant asserted the following cause of action: recovery on promissory notes.

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 the amount of \$72,763.94, costs, filing fees, attorneys' fees, and such other relief as the Panel feels is just and proper.

Respondent requested: compensatory damages in the amount of \$100,000.00 on the first and second counterclaim; compensatory damages in the amount of \$30,000.00 on the third counterclaim; and on the fourth counterclaim, penalties by statute including reasonable attorney fees; and costs, arbitrators' fees, expungement of all references to termination on his CRD record

and such other relief as may be deemed just and proper.

In his Counterclaim, Respondent asserted the following causes of action: wrongful termination, defamatory statement on the Form U-5, and failure to pay commissions.

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. Respondent is liable for and shall pay Claimant compensatory damages in the amount of \$72,763.94, which amount includes interest.
2. Respondent is liable for and shall pay Claimant attorneys' fees in the amount of \$18,107.45 pursuant to the terms of the promissory notes signed by the Respondent.
3. Respondent's Counterclaims are denied in their entirety.
4. Any and all relief not specifically addressed herein, including punitive 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	= \$ 1,000.00
Counter claim filing fee	= \$ 300.00

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, Ryan Beck is a party.

Member surcharge	= \$ 1,100.00
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 a single arbitrator @ \$450.00 = \$ 450.00
Pre-hearing conference: May 16, 2005 1 session

One (1) Pre-hearing session with Panel @ \$1,125.00 = \$ 1,125.00
Pre-hearing conference: February 25, 2005 1 session

Seven (7) Hearing sessions @ \$1,125.00 = \$ 7,875.00
Hearing Dates: June 1, 2005 2 sessions
June 2, 2005 2 sessions
June 3, 2005 1 session
July 12, 2005 2 sessions

Total Forum Fees = \$ 9,450.00

1. The Panel has assessed \$4,725.00 of the forum fees to Claimant.
2. The Panel has assessed \$4,725.00 of the forum fees to Respondent.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 1,000.00
Member Fees	= \$ 4,600.00
<u>Forum Fees</u>	= \$ 4,725.00
Total Fees	= \$10,325.00
<u>Less payments</u>	= \$ 6,350.00
Balance Due NASD Dispute Resolution	= \$ 3,975.00

2. Respondent is solely liable for:

Counterclaim Filing Fee	= \$ 300.00
<u>Forum Fees</u>	= \$ 4,725.00
Total Fees	= \$ 5,025.00
<u>Less payments</u>	= \$ 1,425.00
Balance Due NASD Dispute Resolution	= \$ 3,600.00

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

ARBITRATION PANEL

William C. Struyck	-	Non-Public Arbitrator, Presiding Chairperson
Arthur D. Felsenfeld	-	Non-Public Arbitrator
Michael J. McManus	-	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.

William C. Struyck
Non-Public Arbitrator, Presiding Chairperson

Signature Date



Arthur D. Felsenfeld
Non-Public Arbitrator

8/18/05

Signature Date

Michael J. McManus
Non-Public Arbitrator

Signature Date

8/18/05

Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

William C. Struyck	-	Non-Public Arbitrator, Presiding Chairperson
Arthur D. Felsenfeld	-	Non-Public Arbitrator
Michael J. McManus	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

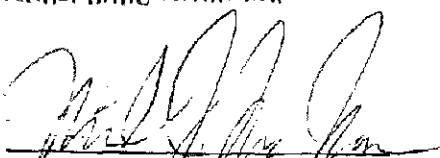
I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.

William C. Struyck
Non-Public Arbitrator, Presiding Chairperson

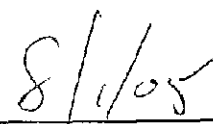
Signature Date

Arthur D. Felsenfeld
Non-Public Arbitrator

Signature Date



Michael J. McManus
Non-Public Arbitrator



Signature Date

Date of Service (For NASD Dispute Resolution use only)