

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

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In the Matter of the Arbitration Between:

CRT Capital Group LLC ("Claimant") vs. OTA LLC (f/k/a OTA Limited Partnership) and Crown Financial Group, Inc. (f/k/a MH Meyerson & Co., Inc.) ("Respondents")

Case Number: 04-07250

Hearing Site: New York, New York.

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Nature of the Dispute: Member vs. Members

**REPRESENTATION OF PARTIES**

CRT Capital Group LLC hereinafter referred to as "Claimant": Jay G. Strum, Esq., Kaye Scholer LLP, New York, NY.

OTA LCC (f/k/a OTA Limited Partnership) ("OTA") and Crown Financial Group, Inc. (f/k/a MH Meyerson & Co., Inc.) ("Crown") hereinafter collectively referred to as "Respondents": Howard S. Schrader, Esq., DLA Piper Rudnick Gray Cary US LLP, New York, NY.

**CASE INFORMATION**

Statement of Claim filed on or about: October 8, 2004.

Claimant signed the Uniform Submission Agreement: October 7, 2004.

Statement of Answer filed by Respondent OTA on or about: February 3, 2004 [sic].  
Respondent OTA did not submit a signed Uniform Submission Agreement.

Statement of Answer filed by Respondent Crown on or about: February 3, 2004 [sic].  
Respondent Crown did not submit a signed Uniform Submission Agreement.

**CASE SUMMARY**

Claimant asserted the following causes of action: breach of contract, modification, unjust enrichment; breach of implied covenant of good faith and fair dealing, and violation of NASD Conduct Rule 2110.

Unless specifically admitted in its Answer, Respondent OTA denied the allegations made in the Statement of Claim.

Unless specifically admitted in its Answer, Respondent Crown denied the allegations made in the Statement of Claim.

### **RELIEF REQUESTED**

Claimant requested that the panel issue an award dismissing this NASD arbitration dispute and referring the parties back to New York Supreme Court, or, in the alternative, awarding damages to CRT in an amount to be determined, but in no event less than \$611,617.50, awarding attorneys' fees, costs and disbursements, and granting such other relief as is just and proper.

Respondent OTA requested that the panel issue an award dismissing Claimant's claim, awarding attorneys' fees, costs and disbursements, awarding the costs and fees incurred in obtaining a stay of Claimant's legal claims against Respondent OTA in favor of NASD arbitration, and granting such other relief as is just and proper.

Respondent Crown requested that the panel issue an award dismissing Claimant's claim, awarding attorneys' fees, costs and disbursements, awarding the costs and fees incurred in obtaining a stay of Claimant's legal claims against Respondent Crown in favor of NASD arbitration, and granting such other relief as is just and proper.

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

Respondents OTA and Crown did not file with NASD Dispute Resolution ("NASD DR") properly executed Uniform Submission Agreements but are required to submit to arbitration pursuant to the Code and, having answered the claim, are bound by the determination of the Panel on all issues submitted.

By letter dated September 23, 2005 counsel for Respondents notified NASD DR that Claimant and Respondent OTA entered into a settlement agreement pursuant to which Claimant provided Respondent OTA with a complete release of all claims; On October 4, 2005 Claimant's counsel verbally confirmed the settlement.

On or about October 11, 2005, Claimant filed a Motion for Summary Judgment or Dismissal. Respondent Crown did not file a response to the Motion. After due deliberation, the Panel granted Claimant's Motion and dismissed the arbitration proceedings.

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 and Claimant's Motion for Summary Judgment or Dismissal, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims are dismissed in their entirety.
2. 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 = \$ 1,250.00

### **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, Claimant CRT Capital Group LLC, Respondent OTA LLC (f/k/a OTA Limited Partnership), and Respondent Crown Financial Group, Inc. (f/k/a MH Meyerson & Co., Inc.) are parties.

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) Pre-hearing session with a single arbitrator @ \$450.00 per session = \$ 450.00

Pre-hearing conference: September 29, 2005 1 session

Three (3) Pre-hearing sessions with Panel @ \$1,200.00 per session = \$ 3,600.00

Pre-hearing conferences: April 19, 2005 1 session

July 18, 2005 1 session

November 8, 2005 1 session

Total Forum Fees = \$ 4,050.00

1. The Panel has assessed \$2,025.00 of the forum fees to Claimant

2. The Panel has assessed \$2,025.00 of the forum fees jointly and severally to Respondents OTA and Crown.

### **Fee Summary**

1. Claimant is solely liable for:

Initial Filing Fee = \$ 1,250.00

Member Fees = \$ 7,000.00

Forum Fees = \$ 2,025.00

Total Fees = \$ 10,275.00

Less payments = \$ 9,450.00

Balance Due NASD Dispute Resolution = \$ 825.00

2. Respondent OTA is solely liable for:

Member Fees = \$ 7,000.00

Total Fees = \$ 7,000.00

<u>Less payments</u>	= \$ 7,000.00
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondent Crown is solely liable for:

<u>Member Fees</u>	= \$ 7,000.00
Total Fees	= \$ 7,000.00
<u>Less payments</u>	= \$ 3,000.00
Balance Due NASD Dispute Resolution	= \$ 4,000.00

4. Respondents OTA and Crown are jointly and severally liable for:

<u>Forum Fees</u>	= \$ 2,025.00
Total Fees	= \$ 2,025.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 2,025.00

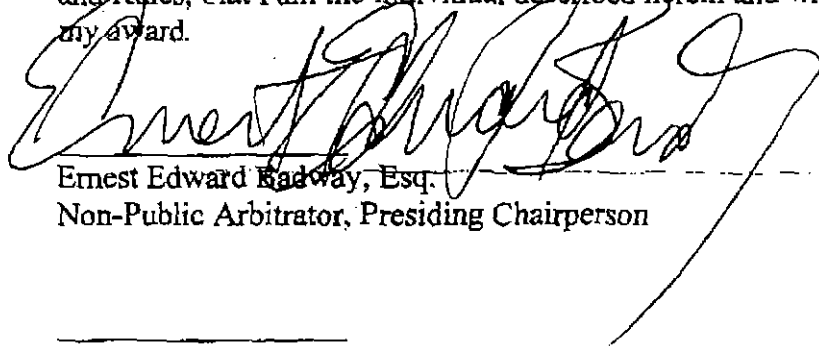
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

**ARBITRATION PANEL**

Ernest Edward Badway, Esq.	-	Non-Public Arbitrator, Presiding Chairperson
Arthur H. Sobel, Esq.	-	Non-Public Arbitrator
Paul R. Walsh	-	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.



Ernest Edward Badway, Esq.  
Non-Public Arbitrator, Presiding Chairperson

12/5/05

Signature Date

Arthur H. Sobel, Esq.  
Non-Public Arbitrator

Signature Date

Paul R. Walsh  
Non-Public Arbitrator

Signature Date

DECEMBER 7, 2005  
Date of Service (For NASD Dispute Resolution use only)


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