

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Oppenheimer & Co. Inc. f/k/a Fahnstock & Co. Inc. (Claimant) vs. Clifford J. Pinner (Respondent)

Case Number: 04-07442

Hearing Site: New York, New York.

Nature of the Dispute: Member vs. Associated Person.

REPRESENTATION OF PARTIES

Claimant Oppenheimer & Co. Inc. hereinafter referred to as "Claimant": Yosef Sinensky, Esq., Eric J. Shames, Esq., and Evelyn Bukchin, Esq., Oppenheimer & Co. Inc., New York, NY.

Clifford J. Pinner hereinafter referred to as "Respondent" appeared *pro-se*.

CASE INFORMATION

Statement of Claim filed on or about: October 22, 2004.

Claimant signed the Uniform Submission Agreement: October 22, 2004.

Statement of Answer filed by Respondent on or about: October 13, 2005.

Respondent did not sign the Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: breach of employment contract and failure to repay promissory note.

Unless specifically admitted in his Answer, Respondent denied the allegations of wrongdoing and set forth in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested actual damages in the amount of \$20,000.00 pursuant to the Note, interest at the rate of 14% per annum accrued from March 31, 2003 through the date of payment in full and all costs incurred by Claimant in connection with the enforcement and collection of the amount owed pursuant to the Note, including but not limited to, estimated attorneys' fees of \$3,000.00 and NASD filing fees of no less than \$1,475.00 incurred in connection with the filing of this Statement of Claim.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Pinner 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 having answered the claim and appeared and testified at the hearing is bound by the determination of the Arbitrator on all issues submitted.

An Initial Pre-Hearing Telephonic Conference was held on September 27, 2005. Claimant's request that this matter be decided on the papers was denied.

Claimant's October 5, 2005 Motion for Default was denied.

On or about October 13, 2005 Respondent submitted a *pro se* Dispute of Claim which the Arbitrator deemed Respondent's Answer.

Prior to November 7, 2005 hearing, Respondent submitted a Motion to Dismiss. Respondent's Motion to Dismiss was denied.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, the Arbitrator 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 compensatory damages in the amount of \$19,701.00 plus interest at the rate of 5% per annum from March 31, 2003 until the date of this Award.
2. Respondent is liable for and shall pay to Claimant costs in the amount of \$2,000.00 plus interest at the rate of 5% per annum from March 31, 2003 until the date of this award.
3. 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 = \$ 750.00

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, Oppenheimer is a party.

Member surcharge	= \$ 425.00
Total Member Fees	= \$ 425.00

Forum Fees and Assessments

The Arbitrator 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 arbitrator, including a pre-hearing conference with the arbitrator, that lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) Pre-hearing sessions with a single arbitrator @ \$450.00/session = \$ 900.00
Pre-hearing conferences: February 1, 2005 1 session
September 27, 2005 1 session

One (1) Hearing session @ \$450.00/session = \$ 450.00

Hearing Date: November 7, 2005 1 session

Total Forum Fees = \$ 1,350.00

1. The Arbitrator has assessed \$675.00 of the forum fees to Claimant.
2. The Arbitrator has assessed \$675.00 of the forum fees to Respondent.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 750.00
Member Fees	= \$ 425.00
<u>Forum Fees</u>	= \$ 675.00
Total Fees	= \$ 1,850.00
<u>Less payments</u>	= \$ 2,375.00
Refund Due Claimant	= \$ 525.00

2. Respondent is solely liable for:

<u>Forum Fees</u>	= \$ 675.00
Total Fees	= \$ 675.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 675.00

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

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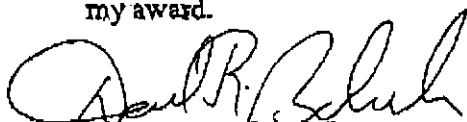
ARBITRATOR

David R. Bolnick, Esq.

Sole Non-Public Arbitrator

Arbitrator's Signature

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.



David R. Bolnick, Esq.
Sole Non-Public Arbitrator.

11/14/05
Signature Date

November 14, 2005
Date of Service (For NASD Dispute Resolution use only)