

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

First Montauk Securities Corp., Claimant v. Michael Poutre and Shlomi Eplboim, Respondents

Case Number: 04-07478

Hearing Site: Los Angeles, California

Nature of the Dispute: Member v. Associated Persons

REPRESENTATION OF PARTIES

For Claimant:

Joel Levinson, Esq.
First Montauk Securities, Corp.
Red Bank, New Jersey

For Respondent Michael Poutre:

Michael A. Poutre, II
In Propria Persona
Beverly Hills, California

For Respondent Shlomi Eplboim:

Shlomi S. Eplboim
In Propria Persona
Tarzana, California

CASE INFORMATION

Statement of Claim filed: October 25, 2004

Amended Statement of Claim filed: January 14, 2005

Claimant's Uniform Submission Agreement signed: October 25, 2004

Joint Statement of Answer filed by Respondents: December 16, 2004

CASE SUMMARY

In the Statement of Claim, Claimant alleged breach of promissory notes.

In the Amended Statement of Claim, Claimant added an allegation of violation of employment agreements.

In their Joint Statement of Answer, Respondents stated that they should not be compelled to pay the monies owed due to unethical conduct on the part of Claimant.

RELIEF REQUESTED

In the Statements of Claim, Claimant requested compensatory damages in the amount of \$58,576.18 from Respondent Michael Poutre, compensatory damages in the amount of \$56,943.37 from Respondent Shlomi Eplboim, interest, and costs.

Respondents requested dismissal of the Claimant's Statements of Claim in their entirety.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents Michael Poutre and Shlomi Eplboim did not file with NASD Dispute Resolution properly executed submission agreements but are required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (Code) and having answered the claim, appeared and testified at the hearing, are bound by the determination of the Panel on all issues submitted.

On December 29, 2004, Claimant's counsel signed a Waiver Agreement on behalf of Claimant expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

Pursuant to the Code of Arbitration Procedure IM-10100, the waiver of the Claimant shall constitute and operate as a waiver for all member firms and associated persons (including terminated or otherwise inactive member firms or associated persons) against whom the Claim has been filed.

On January 14, 2005, Claimant filed an Amended Statement of Claim pursuant to Rule 10328(c) of the Code, to add the claim of violation of employment agreements.

By letter dated March 3, 2006, Claimant withdrew, without prejudice, the additional claim added in the Amended Statement of Claim filed January 14, 2005.

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, testimony, and evidence presented at the hearing, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondent Michael Poutre is liable to and shall pay Claimant First Montauk Securities Corp. the sum of \$63,900.00 in compensatory damages.
- 2) Respondent Michael Poutre is liable to and shall pay Claimant First Montauk Securities Corp. interest on the sum of \$63,900.00 at the rate of 6% per annum from the date of the Award until payment is made in full.
- 3) Respondent Shlomi Eplboim is liable to and shall pay Claimant First Montauk Securities Corp. the sum of \$55,440.00 in compensatory damages.
- 4) Respondent Shlomi Eplboim is liable to and shall pay Claimant First Montauk Securities Corp. interest on the sum of \$55,440.00 at the rate of 6% per annum from the date of the Award until payment is made in full.
- 5) The parties shall bear their respective costs, including attorney's fees.
- 6) All other relief requested and not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 1,000.00
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Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm First Montauk Securities Corp. is a party and the following fees are assessed:

Member Surcharge	= \$ 1,700.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$ 2,750.00
Total Member Fees	= \$ 5,200.00

Adjournment Fees

The following adjournment fees are assessed:

November 30, 2005 – December 2, 2005 hearing adjournment requested
by Respondents Michael Poutre and Shlomi Eplboim = \$ 1,125.00

The Panel assessed \$1,125.00 of the adjournment fees jointly and severally to Respondents Michael Poutre and Shlomi Eplboim.

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair or the parties and the Panel. The following fees are assessed:

One (1) Pre-hearing conference session with the Panel @ \$1,125.00/session = \$ 1,125.00
Pre-hearing conference: March 28, 2005 1 session

Two (2) Hearing sessions @ \$1,125.00/session = \$ 2,250.00
Hearings: March 7, 2006 2 sessions

Total Forum Fees = \$ 3,375.00

1. The Panel assessed \$1,687.50 of the forum fees to Claimant First Montauk Securities Corp.
2. The Panel assessed \$1,687.50 of the forum fees jointly and severally to Respondents Michael Poutre and Shlomi Eplboim.

Administrative Costs

Administrative costs are expenses incurred because a party requested additional services beyond the normal administrative services. These additional services include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, security, and sundry other requests.

Claimant requested photocopy service of 25 copies @ \$.50 per page = \$ 12.50

Respondents requested photocopy service of 40 copies @ \$.50 per page = \$ 20.00

Fee Summary

1. Claimant First Montauk Securities Corp. is charged with the following fees and costs:

Initial Filing Fee	= \$ 1,000.00
Member Fees	= \$ 5,200.00
Forum Fees	= \$ 1,687.50
<u>Administrative Costs</u>	= \$ 12.50
Total Fees	= \$ 7,900.00
<u>Less payments</u>	= \$ (7,325.00)
Balance Due NASD Dispute Resolution	= \$ 575.00

2. Respondents Michael Poutre and Shlomi Eplboim are charged jointly and severally with the following fees and costs:

Adjournment Fee	= \$ 1,125.00
Forum Fees	= \$ 1,687.50
<u>Administrative Costs</u>	= \$ 20.00
Total Fees	= \$ 2,832.50
<u>Less payments</u>	= \$ (0.00)
Balance Due NASD Dispute Resolution	= \$ 2,832.50

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

ARBITRATION PANEL

Michael W. Burnett	-	Non- Public Arbitrator, Presiding Chair
Milton C. Bennett	-	Non-Public Arbitrator
Stephen Brixey, Jr.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures


Michael W. Burnett
Chair, Non-Public Arbitrator

3/8/2006
Signature Date

Milton C. Bennett
Non-Public Arbitrator

Signature Date

Stephen Brixey, Jr.
Non-Public Arbitrator

Signature Date

3/9/06
Date of Service

NASD Dispute Resolution
Arbitration No. 04-07478
Award Page 6 of 6

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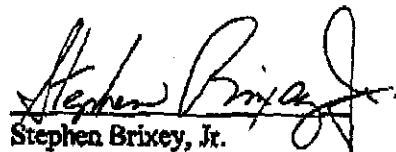
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