

Award
NASD Dispute Resolution

COPY

In the Matter of the Arbitration Between:

Nelson P. Chia, Claimant v. Larry Richard Law and JRL Capital Corporation, Respondents

Case Number: 04-07479

Hearing Site: San Francisco, California

Nature of the Dispute: Associated Person vs. Associated Person and Member

REPRESENTATION OF PARTIES

For Claimant:

Robert E. Thompson, Esq.
Law Offices of Robert E. Thompson
San Francisco, California

For Respondents:

Richard H. Rahm
Allen Matkins Leck Gamble &
Mallory LLP
San Francisco, California

CASE INFORMATION

Statement of Claim filed: October 25, 2004

Amended Statement of Claim for Damages and Expungement of Specific Form U-5 Entries
filed: November 3, 2005

Claimant's Opposition to Respondent JRL's Notice of Motion to Dismiss Statement of Claim
with Prejudice filed: September 29, 2005

Claimant's Opposition to Respondent JRL's Notice of Motion to Dismiss Fraud and Retaliation
Claims with Prejudice and Declaration of Counsel in Support Thereof filed: December 12, 2005

Claimant's Response to Respondent JRL's Itemization of Attorneys' Fees and Costs filed:
January 20, 2006

Claimant's Uniform Submission Agreement signed: October 21, 2004

Joint Statement of Answer of Respondents Larry Richard Law and JRL Capital Corporation
("JRL") filed: December 16, 2004

JRL's Notice of Motion to Dismiss Statement of Claim with Prejudice filed: September 15, 2005

JRL's Reply Brief in Support of its Motion to Dismiss filed: October 5, 2005

JRL's Notice of Motion to Dismiss Fraud and Retaliation Claims with Prejudice, Memorandum of Points and Authorities in Support Thereof and Declaration of Richard H. Rahm in Support of JRL's Motion to Dismiss Fraud and Retaliation Claims with Prejudice filed: November 17, 2005

JRL's Reply Brief in Support of its Motion to Dismiss Fraud and Retaliation Claims filed: December 19, 2005

JRL's Itemization of Attorneys' Fees and Costs Pursuant to Anti-Slapp Statute and Order filed: January 11, 2006

CASE SUMMARY

Claimant alleged that from October 2000 through November 2003, Claimant was employed by and/or an agent of Respondent JRL and that in or around November 2003, Claimant and Respondents decided to sever their relationship. Claimant further alleged that as a result of the severance of the relationship between Claimant and Respondents, Respondents through Respondent Law, filed with the NASD a Form U-5 Uniform Termination Notice for Securities Industry Registration ("Form U-5") and that said Form U-5 contained willful untruths that has caused harm to Claimant and his business. Claimant's Statement of Claim alleged the following claims: 1) Libel; and 2) Negligence. Claimant's Amended Statement of Claim alleged the following claims: 1) Fraud; 2) Retaliation; and 3) Declaratory Relief.

Respondent JRL alleged that after careful review and guidance from its NASD Core Examiner, the subject Form U-5 was filed with data that was truthful and accurate.

RELIEF REQUESTED

Claimant requested the following relief in his Statement of Claim:

1. General damages, joint and several, in an amount according to proof;
2. Purging of unsubstantiated allegations and/or explanations in the Form U-5 and an Order for expungement of the false statements contained in the U-5 filing;
3. Punitive and exemplary damages according to proof;
4. Attorney's fees;
5. Costs; and
6. Such further relief that the Panel deems proper.

Claimant requested the following relief in his Amended Statement of Claim:

1. General damages, joint and several, in an amount according to proof;
2. Declaratory relief purging unsubstantiated allegations and/or explanations contained in the Form U-5 and an Order for expungement of the false statements contained in the U-5 filing;
3. Punitive and exemplary damages according to proof;
4. Attorney's fees;
5. Costs; and
6. Such further relief that the Panel deems proper.

Respondents requested that the Panel dismiss Claimant's claims and, pursuant to the Anti-Slapp statute, award Respondents reasonable attorneys' fees and costs.

OTHER ISSUES CONSIDERED AND DECIDED

On February 11, 2005, Claimant and Claimant's counsel signed a Waiver Agreement 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.

Respondents did not file with NASD Dispute Resolution ("NASD-DR") properly executed submissions to arbitration but are required to submit to arbitration pursuant to the NASD-DR Code of Arbitration Procedure ("the Code") and, having answered Claimant's Claim, are bound by the determination of the Panel on all issues submitted.

On or about October 7, 2005, the Panel reviewed and considered the briefs and arguments of counsel regarding Respondents' Motion to Dismiss Statement of Claim. The Panel granted the Motion and permitted Claimant to file an amended Claim by November 7, 2005.

On or about December 28, 2005, the Panel reviewed and considered the briefs and arguments of counsel regarding Respondents' Motion to Dismiss Fraud and Retaliation Claims in Claimant's Amended Statement of Claim. The Panel granted the Motion and dismissed with prejudice, the First Claim for Fraud and the Second Claim for Retaliation. The Panel further ruled that Respondent shall be awarded reasonable attorneys' fees and costs incurred in conjunction with the filing of the Motion to Dismiss Fraud and Retaliation Claims.

The Panel 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 the stipulation between the parties in support of expungement of Nelson P. Chia's Form U-5, the Panel decided in full and final resolution of the issues submitted for determination as follows:

1) Pursuant to the parties' agreement, the Panel recommends the expungement of the following language in Mr. Chia's Form U-5 and from Mr. Chia's registration records maintained by the NASD Central Registration Depository ("CRD") based on the defamatory nature of the information:

1. At Section 3, the language "Lack of production, failure to comply with regulatory requirements." should be expunged and replaced with the following language: "Mutual Agreement".
2. At Section 7B, the language requiring a "yes" or "no" response to the statement "Currently is, or at termination was, the individual under internal review for fraud or wrongful taking of property, or violating investment-related statutes, regulations, rules or industry standards of conduct?", the "yes" response should be expunged, and a "no" response should be inserted as the investigation had concluded before the 11/18/03 termination date.
3. In the Internal Review section, the following language should be expunged:
 - a. Mr. Chia was informed of the internal review (§1);
 - b. that the date internal review was initiated was "03/05/2003" (§2);
 - c. that the nature of the internal review or details of the conclusion were "Certain activities of the rep related to compliance with documentation came into review during a scheduled NASD audit as well as indications that the rep might have engaged in churning of accounts and/or selling away. After a review of the available facts it was clear that there was a problem with regulatory documentation of investments, however, nothing related to churning or selling away could be confirmed." (§3);
 - d. The date the reported internal review was concluded was "11/18/2003".
4. "After a review of the available facts it was clear that there was a problem with regulatory documentation of investments".

The internal investigation was concluded prior to the 11/18/03 termination date, thereby making the above-identified entries inaccurate and/or unnecessary.

The parties stipulate that Respondents have no objection to the expungement of the above-referenced facts from Claimant's Form U-5, because Claimant was not involved in the alleged investment-related sales practice violation.

The Panel recommends the expungement of all reference to the above-captioned arbitration from Respondent Nelson P. Chia's registration records maintained by the CRD.

2) In the December 28, 2005 Order, the Panel found that Respondents shall be awarded reasonable attorneys' fees and costs incurred in conjunction with the filing of the Motion to Dismiss Fraud and Retaliation Claims. Respondents have submitted an itemization for such fees and costs, to which Claimant has responded. Having considered the briefing on this issue and the arguments of counsel, the Panel has determined that Claimant is liable to and shall pay Respondents \$10,000.00 in attorneys' fees and costs.

3) All other relief not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

| | |
|--------------------------|------------|
| Initial claim filing fee | = \$250.00 |
|--------------------------|------------|

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, JRL is a party and the following fees are assessed:

| | |
|----------------------------|---------------------|
| Member Surcharge | = \$1,500.00 |
| Pre-Hearing Process Fee | = \$ 750.00 |
| <u>Hearing Process Fee</u> | <u>= \$2,200.00</u> |
| Total Member Fees | = \$4,450.00 |

Three-Day Cancellation Fee

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session.

| | |
|---|------------|
| Cancellation of February 8-10, 2006 hearing dates | = \$300.00 |
|---|------------|

The Panel assessed \$150.00 of the cancellation fee to Claimant.

The Panel assessed \$150.00 of the cancellation fee jointly and severally to Respondents Larry Richard Law and JRL.

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/Panel. The following fees are assessed:

(1) Pre-hearing conference session with a single arbitrator @ \$450.00/session = \$450.00
Pre-hearing conference: January 27, 2006 1 session

(4) Pre-hearing conference sessions with the Panel @ \$1,000.00/session = \$4,000.00
Pre-hearing conferences: September 9, 2005 1 session
October 7, 2005 1 session
November 29, 2005 1 session
December 28, 2005 1 session

Total Forum Fees = \$4,450.00

The Panel assessed \$2,225.00 of the forum fees to Claimant.

The Panel assessed \$2,225.00 of the forum fees jointly and severally to Respondents Larry Richard Law and JRL.

Fee Summary

1. Claimant is charged with the following fees and costs:

| | |
|----------------------------------|----------------------|
| Initial Filing Fee | = \$ 250.00 |
| Three-Day Cancellation Fee | = \$ 150.00 |
| Forum Fees | = \$ 2,225.00 |
| <hr/> Total Fees | = \$ 2,625.00 |
| Less Payments | = \$(1,250.00) |
| <hr/> Balance Due NASD-DR | = \$ 1,375.00 |

2. Respondent JRL is charged with the following fees and costs:

| | |
|----------------------------------|------------------|
| Member Fees | = \$ 4,450.00 |
| Less Payments | = \$(4,450.00) |
| <hr/> Balance Due NASD-DR | = \$ 0.00 |

3. Respondents Larry Richard Law and JRL are charged jointly and severally with the following fees and costs:

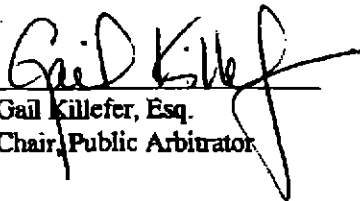
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|----------------------------|----------------------|
| Three-Day Cancellation Fee | = \$ 150.00 |
| Forum Fees | = \$ 2,225.00 |
| Total Fees | = \$ 2,375.00 |
| Less Payments | = \$(0.00) |
| Balance Due NASD-DR | = \$ 2,375.00 |

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

ARBITRATION PANEL

| | | |
|------------------------|---|------------------------------------|
| Gail Killefer, Esq. | - | Public Arbitrator, Presiding Chair |
| Nancy Hutt, Esq. | - | Public Arbitrator |
| Paul D. Katerndahl, JD | - | Non-Public Arbitrator |

Concurring Arbitrators' Signatures


Gail Killefer, Esq.
Chair, Public Arbitrator

2/14/06
Signature Date

Nancy Hutt, Esq.
Public Arbitrator

Signature Date

Paul D. Katerndahl, JD
Non-Public Arbitrator

Signature Date

2/14/06
Date of Service

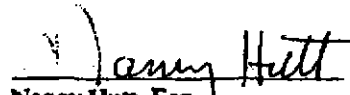
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| Nancy Hutt, Esq. | - | Public Arbitrator |
| Paul D. Katerndahl, JD | - | Non-Public Arbitrator |

Consenting Arbitrators' Signatures

Gail Killefer, Esq.
Chair, Public Arbitrator

Signature Date



Nancy Hutt, Esq.
Public Arbitrator

2/13/06

Signature Date

Paul D. Katerndahl, JD
Non-Public Arbitrator

Signature Date

2/14/06

Date of Service

Gail Killefer, Esq. -
Nancy Hutt, Esq. -
Paul D. Katemndahl, JD -

Public Arbitrator, Presiding Chair
Public Arbitrator
Non-Public Arbitrator

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Public Arbitrator

Signature Date



Paul D. Katemndahl, JD
Non-Public Arbitrator

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