

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Dennis Darling (Claimant) v. Emmet & Co., Inc. and Christopher Emmet (Respondents)

Case Number: 04-07730

Hearing Site: New York, New York

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

REPRESENTATION OF PARTIES

Claimant Dennis Darling hereinafter referred to as "Claimant": Samuel J. Samaro, Esq.,
Pashman Stein, P.C., Hackensack, New Jersey.

Respondents Emmet & Co., Inc. ("Emmet") and Christopher Emmet ("C. Emmet") hereinafter collectively referred to as "Respondents": Rebecca A. Braitling, Esq., and Patrick M. Stanton, Esq., Ogletree, Deakins, Nash, Smoak & Stewart, P.C., Morristown, NJ.

CASE INFORMATION

Statement of Claim filed on or about: November 4, 2004.

Amended Statement of Claim filed on or about: December 7, 2004.

Claimant signed the Uniform Submission Agreement: October 27, 2004.

Joint Statement of Answer filed by Respondents Emmet and C. Emmet on or about: December 28, 2004.

Respondent Emmett signed the Uniform Submission Agreement: December 17, 2004.

Respondent C. Emmett did not sign the Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: breach of contract, quantum meruit, violation of the New Jersey Wage and Hour Law, conversion, and discriminatory discharge.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$2,000,000.00, punitive damages in the amount of \$1,000,000.00, equitable relief including back-pay, lost social security contributions, lost employment benefits, and reinstatement or, in lieu thereof, front-pay, attorneys' fees, costs, and such other and further relief as is equitable and just.

Respondents requested judgment against Claimant dismissing the Amended Statement of Claim in its entirety and with prejudice and awarding Respondents their costs, attorneys' fees, and such other and further relief as the Panel deems just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent C. Emmet 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 Panel on all issues submitted.

By Claimant's letter dated January 21, 2005 all parties agreed to arbitrate Claimant's Employment Discrimination Claim together with Claimant's other claims in an NASD arbitration proceeding.

Respondents made a Motion to Dismiss at the close of Claimant's case in chief which Claimant opposed. After due deliberation, the Motion to Dismiss was granted as to the discriminatory discharge claim and denied as to the remaining claims.

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 Emmet is liable for and shall pay to Claimant compensatory damages in the amount of \$75,000.00.
2. 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 = \$ 500.00

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, Respondent Emmet is a party.

Member surcharge = \$ 2,800.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$ 5,000.00

Total Member Fees = \$ 8,550.00

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:

Two (2) Pre-hearing sessions with a single arbitrator @ \$450.00 per session = \$ 900.00

Pre-hearing conferences: June 21, 2005 1 session
July 21, 2005

One (1) Pre-hearing session with Panel @ \$1,200.00 per session = \$ 1,200.00

Pre-hearing conference: May 27, 2005 1 session

Six (6) Hearing sessions @ \$1,200.00 per session = \$ 7,200.00

Hearing Dates: November 15, 2005 2 sessions
November 16, 2005 2 sessions
November 17, 2005 2 sessions

Total Forum Fees = \$ 9,300.00

1. The Panel has assessed \$3,100.00 of the forum fees to Claimant.
2. The Panel has assessed \$6,200.00 of the forum fees jointly and severally to Respondents.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee = \$ 500.00

Forum Fees = \$ 3,100.00

Total Fees = \$ 3,600.00

Less payments = \$ 1,700.00

Balance Due NASD Dispute Resolution = \$ 1,900.00

2. Respondent Emmet is solely liable for:

Member Fees = \$ 8,550.00

Total Fees = \$ 8,550.00

| | |
|-------------------------------------|---------------|
| <u>Less payments</u> | = \$ 8,550.00 |
| Balance Due NASD Dispute Resolution | = \$ 0.00 |

3. Respondents Emmet and C. Emmet are jointly and severally liable for:

| | |
|-------------------------------------|---------------|
| <u>Forum Fees</u> | = \$ 6,200.00 |
| <u>Total Fees</u> | = \$ 6,200.00 |
| <u>Less payments</u> | = \$ 0.00 |
| Balance Due NASD Dispute Resolution | = \$ 6,200.00 |

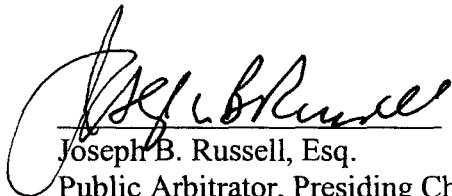
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

| | | |
|-------------------------|---|--|
| Joseph B. Russell, Esq. | - | Public Arbitrator, Presiding Chairperson |
| George Bulow | - | Public Arbitrator |
| Alida D. Camp, J.D. | - | 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.



Joseph B. Russell, Esq.
Public Arbitrator, Presiding Chairperson

19 Nov. 2005

Signature Date

George Bulow
Public Arbitrator

Signature Date

Alida D. Camp, J.D.
Public Arbitrator

Signature Date

NOVEMBER 29, 2005

Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

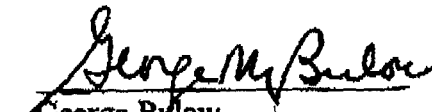
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|-------------------------|---|--|
| Joseph B. Russell, Esq. | - | Public Arbitrator, Presiding Chairperson |
| George Bulow | - | Public Arbitrator |
| Alida D. Camp, J.D. | - | Public Arbitrator |

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.

Joseph B. Russell, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date



George Bulow
Public Arbitrator

11/21/05

Signature Date

Alida D. Camp, J.D.
Public Arbitrator

Signature Date

NOVEMBER 28, 2005

Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

| | | |
|-------------------------|---|--|
| Joseph B. Russell, Esq. | - | Public Arbitrator, Presiding Chairperson |
| George Bulow | - | Public Arbitrator |
| Alida D. Camp, J.D. | - | Public Arbitrator |

Concurring Arbitrators' Signatures

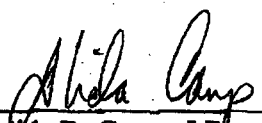
I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.

Joseph B. Russell, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

George Bulow
Public Arbitrator

Signature Date



Alida D. Camp, J.D.
Public Arbitrator

November 22, 2005
Signature Date

NOVEMBER 29, 2005
Date of Service (For NASD Dispute Resolution use only)