
Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant

Guzman & Company, a Florida corporation

Case Number: 04-08318

Name of the Respondent

Patrick Joseph Comack

Hearing Site: Boca Raton, Florida

Nature of the Dispute: Member vs. Associated Person.

REPRESENTATION OF PARTIES

For Guzman & Company, a Florida corporation, hereinafter referred to as "Claimant": Richard E. Brodsky, Esq., Steel, Hector & Davis, Miami, Florida.

For Patrick Joseph Comack, hereinafter referred to as "Respondent": Paul Haralson, Esq., Bermudez, Haralson & Tome, Miami, Florida.

CASE INFORMATION

Statement of Claim filed on or about: December 3, 2004.

Claimant signed the Uniform Submission Agreement: December 3, 2004.

Statement of Answer and Counterclaim filed by Respondent on or about: January 31, 2005.

Respondent signed the Uniform Submission Agreement: December 11, 2004.

Motion to Preclude Respondent from Presenting any Facts or Evidence at the Hearing filed by Claimant on or about: February 1, 2005.

Opposition to Motion to Preclude Respondent from Presenting any Facts or Evidence at the Hearing filed by Respondent on or about: February 15, 2005.

Reply to Opposition to Preclude Respondent from Presenting any Facts or Evidence at the Hearing filed by Claimant on or about: February 16, 2005.

Motion to Amend filed by Respondent on or about: February 15, 2005.

Response to Motion to Amend filed by Claimant on or about: February 16, 2005.

CASE SUMMARY

Claimant asserted the following causes of action: 1) breach of fiduciary duty; 2) breach of contract; 3) intentional and unjustified interference with advantageous business relationships; 4) misappropriation of trade secrets; and, 5) unjust enrichment. The causes of action relate to Respondent's resignation from his employment.

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

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$100,000.00, punitive damages in the amount of \$200,000.00, permanent injunctive relief, attorneys' fees pursuant to Florida Statutes, Section 688.005, costs and other and further relief as this Panel deemed proper.

Respondent requested that the Statement of Claim be dismissed in its entirety, a denial of any injunctive relief, and, within his Counterclaim, an award for damages/lost earnings exceeding \$200,000.00, attorney's fees and such other relief as this Panel deemed appropriate.

OTHER ISSUES CONSIDERED AND DECIDED

On or about February 28, 2005, the Panel issued an Order that denied Claimant's Motion to Preclude and denied Respondent's Motion to Amend as moot.

On May 23, 2005, the parties notified NASD Dispute Resolution that they had settled this matter and submitted a proposed Stipulated Award.

The parties have agreed that the Stipulated Award in this matter may be entered in counterpart copies or that a signed handwritten Stipulated Award may be entered.

AWARD

After considering the pleadings and the proposed Stipulated Award, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

On May 19, 2005, parties entered into a Settlement Agreement that shall become effective upon the entry of this Stipulated Award. This matter came before the Panel on the joint request of both parties to order compliance with the Settlement Agreement entered into between the parties on May 19, 2005. Without the Panel having made any adjudication of any issue of fact or law, the Panel hereby Orders compliance with the Settlement Agreement, with the intention that this Order shall have the full force and effect of a decision of the Panel as a result of a final hearing.

FEES

Pursuant to the NASD Code of Arbitration Procedure (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	= \$ 1,000.00
Counterclaim filing fee	= \$ 300.00

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 is a party to this dispute and was a member of NASD at the time the following fees were assessed:

Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$2,750.00

Variant Research Corporation is the member firm that employed the associated person at the time of the events giving rise to the dispute:

Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$2,750.00

Adjournment Fees

Adjournments filed in this matter for which fees were assessed:

March 3 – 4, 2005, adjournment requested by Respondent	= \$1,125.00
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The Panel has assessed the total adjournment fee of \$1,125.00 to Respondent.

Three-Day Cancellation Fees

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

No three-day cancellation fees were assessed in this matter:

Injunctive Relief Fees

Injunctive relief fees were incurred during this proceeding:	= \$2,500.00
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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:

No hearings were held for this matter.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred during this proceeding.

Fee Summary

Claimant is solely liable for:

Initial Filing Fee	= \$ 1,000.00
Member Fees	= \$ 5,200.00
<u>Injunctive Relief Fees</u>	<u>= \$ 2,500.00</u>
Total Fees	= \$ 8,700.00
<u>Less payments</u>	<u>= \$ 8,700.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent is solely liable for:

Counterclaim Filing Fee	= \$ 300.00
<u>Adjournment Fee</u>	<u>= \$ 1,125.00</u>
Total Fees	= \$ 1,425.00
<u>Less payments</u>	<u>= \$ 1,425.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Variant Research Corporation is liable for:

<u>Member Fees</u>	<u>= \$5,200.00</u>
Total Fees	= \$5,200.00
<u>Less payments</u>	<u>= \$5,200.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

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

ARBITRATION PANEL

<i>Stephen H. Lewis, Esq.</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Steven Goerke, Esq.</i>	-	<i>Public Arbitrator</i>
<i>Marc. S. Dobin, Esq.</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

/s/
Stephen H. Lewis, Esq.
Public Arbitrator, Presiding Chairperson

06/02/05
Signature Date

/s/
Steven Goerke, Esq.
Public Arbitrator

05/25/05
Signature Date

/s/

Marc S. Dobin, Esq.
Non-Public Arbitrator

05/25/05

Signature Date

06/03/05

Date of Service (For NASD Dispute Resolution office use only)

FROM NASD

May. 25 2005 10:03AM P5

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Fee Summary

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Steven Goerke, Esq.	-	Public Arbitrator
Marc. S. Dobin, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures


 Stephen H. Lewis, Esq.
 Public Arbitrator, Presiding Chairperson

6/2/05
 Signature Date

 Steven Goerke, Esq.
 Public Arbitrator

 Signature Date

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Steven Goerke, Esq.	-	Public Arbitrator
Marc. S. Dobin, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Stephen H. Lewis, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date


Steven Goerke, Esq.
Public Arbitrator

5/25/05
Signature Date

FROM :NASD

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Marc S. Dobin, Esq.
Non-Public Arbitrator

5/25/05
Signature Date

Date of Service (For NASD Dispute Resolution office use only)