
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Michael J. Baumgardner
William Fraser

Case Number: 04-08483

Name of the Respondent

Jacob Feldman

Hearing Site: Boca Raton, Florida

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

REPRESENTATION OF PARTIES

Claimant Michael J. Baumgardner ("Baumgardner") and Claimant William Fraser ("Fraser"), hereinafter collectively referred to as "Claimants", appeared pro se.

Respondent Jacob Feldman ("Feldman"), hereinafter referred to as "Respondent", appeared pro se.

CASE INFORMATION

Statement of Claim filed jointly by Claimants on or about: December 15, 2004.

Claimants signed the Uniform Submission Agreements: December 10, 2004.

Answer to the Statement of Claim and Counterclaim against Claimant Baumgardner filed by Respondent on or about: April 4, 2005.

Respondent signed but did not date the Uniform Submission Agreement.

Response to Counterclaim filed by Claimant Baumgardner on or about: April 12, 2005.

CASE SUMMARY

Claimants asserted the following causes of action: 1) negligence; 2) breach of contract; 3) fraud; 4) innocent misrepresentation; and 5) violation of 1934 Securities Exchange Act, Rule 10b-5. The causes of action relate to Claimant Fraser's investment in ownership of First Heritage Corporation and Claimant Baumgardner's employment relationship with Respondent.

Unless specifically admitted in his Answer, Respondent denied the allegations made in the Statement of Claim and asserted various defenses. In addition, Respondent asserted the following Counterclaims against Claimant Baumgardner: 1) negligence; 2) breach of contract; 3) fraud by inducement; and 4) criminal intent.

RELIEF REQUESTED

Claimants requested: 1) compensatory damages in the amount of \$150,000.00; 2) interest at 12%; 3)

costs; and 4) any and all other relief that the undersigned arbitrators (the "Panel") deemed just and proper.

In his Answer to the Statement of Claim, Respondent did not specifically delineate a relief request. In his Counterclaim, Respondent requested: 1) compensatory damages in the amount of \$500,000.00; 2) interest at 8%; 3) costs; 4) suspension of the Claimant Baumgardner's license for a period of two years; and 5) permanent rescission of Claimant Baumgardner's license in the event he continues his wrongful acts.

In his Response to Counterclaim, Claimant Baumgardner asserted various affirmative defenses and requested: 1) that the allegation of negligence be dismissed; 2) that the allegation of breach of contract be dismissed; 3) that the allegation of fraud by inducement be dismissed; and 4) that the allegation of criminal intent be dismissed

OTHER ISSUES CONSIDERED AND DECIDED

At the evidentiary hearing, Claimant Fraser and Respondent Feldman informed the Panel they had settled their claims against one another. Thereafter, Claimant Fraser withdrew his claims against Respondent Feldman. On or about November 21, 2005, the Panel accepted their settlement and Claimant Fraser's withdrawal of his claim.

The parties agreed that the Award in this matter may be executed in counterpart copies.

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. Claimant Baumgardner's claims against Respondent Feldman are hereby denied.
2. Respondent Feldman's Counterclaims against Claimant Baumgardner are hereby denied.
3. Any and all claims for relief not specifically addressed herein are denied with prejudice.

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	= \$ 300.00
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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute.

There were no member fees assessed during these proceedings.

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

There were no adjournment fees assessed during these proceedings.

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:

There were no three-day cancellation fees assessed during these proceedings.

Injunctive Relief Fees

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the panel.

There were no injunctive relief fees assessed during these proceedings.

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:

One (1) Pre-hearing session with the Panel @ \$1,125.00/session	= \$1,125.00
Pre-hearing conference: April 27, 2005 1 session	
One (1) Hearing session with the Panel @ \$1,125.00/session	= \$1,125.00
Hearing Date: November 21, 2005 1 sessions	
<hr/> Total Forum Fees	<hr/> = \$2,250.00

The Panel has assessed forum fees in the amount of \$1,125.00 to Claimant Baumgardner.

The Panel has assessed forum fees in the amount of \$1,125.00 to Respondent Feldman.

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.

There were no administrative costs incurred during these proceedings.

Fee Summary

Claimants Baumgardner and Frazer are jointly and severally liable for:

<u>Initial Filing Fee</u>	= \$ 300.00
<u>Total Fees</u>	= \$ 300.00
<u>Less payments</u>	= \$ 300.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 0.00

Claimant Baumgardner is solely liable for:

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

Respondent Feldman is solely liable for:

Counterclaim Filing Fee	= \$ 300.00
Forum Fees	= \$1,125.00
<u>Total Fees</u>	= \$1,425.00
<u>Less payments</u>	= \$1,425.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 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>Carl Shechter, Esq.</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Don R. Harris</i>	-	<i>Public Arbitrator</i>
<i>Harry Dressler</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

/S/
Carl Shechter, Esq.
Public Arbitrator, Presiding Chairperson

11/23/05
Signature Date

/S/
Don R. Harris
Public Arbitrator

11/22/05
Signature Date

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_____/S/
Harry Dressler
Non-Public Arbitrator

11/25/05
Signature Date

11/28/05
Date of Service (For NASD Dispute Resolution office use only)

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<i>Don R. Harris</i>	-	<i>Public Arbitrator</i>
<i>Harry Dressler</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures



Carl Shechter, Esq.
Public Arbitrator, Presiding Chairperson

11/23/05
Signature Date

Don R. Harris
Public Arbitrator

Signature Date

Carl Shechter, Esq.

Don R. Harris

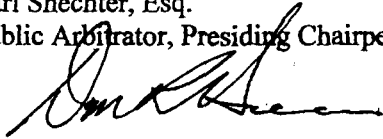
Harry Dressler

- *Public Arbitrator, Presiding Chairperson*
- *Public Arbitrator*
- *Non-Public Arbitrator*

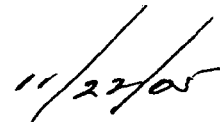
Concurring Arbitrators' Signatures

Carl Shechter, Esq.

Public Arbitrator, Presiding Chairperson



Signature Date



Don R. Harris

Public Arbitrator

Signature Date

Harry Dressler

Non-Public Arbitrator

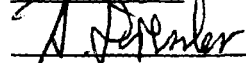
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Harry Dressler

Non-Public Arbitrator

11/25/2005

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