

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Scarlett Mendoza (Claimant) v. Emcor Securities, Inc. (Respondent)

Case Number: 04-08796

Hearing Site: New York, New York

Nature of the Dispute: Associated Person vs. Member

REPRESENTATION OF PARTIES

Claimant, Scarlett Mendoza ("Mendoza") hereinafter referred to as "Claimant": Brian J. Neville, Esq., Law Offices of Brian J. Neville PC, New York, NY.

Respondent, Emcor Securities, Inc. ("Emcor") hereinafter referred to as "Respondent": Richard M. DeAgazio, Esq., Budd Larner PC, Short Hills, NJ.

CASE INFORMATION

Statement of Claim filed on or about: December 29, 2004.

Claimant signed the Uniform Submission Agreement: December 28, 2004.

Statement of Answer filed by Respondent on or about: February 18, 2005.

Respondent signed the Uniform Submission Agreement: February 11, 2005.

CASE SUMMARY

Claimant asserted the following causes of action: defamation, slander & libel, tortious interference with business relationships, and breach of contract.

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

RELIEF REQUESTED

Claimant requested: that Respondent file an amended Form U-5 Termination Notice and that the previous Form U-5 Termination Notice be expunged from the records of the CRD of NASD; compensatory damages in an amount to be determined at the hearing; costs and attorneys' fees to be established at the hearing, as authorized by the New York statutes and equity; interest; cost and disbursements; filing fees; and such other and further relief the Panel deems just and

equitable.

Respondent requested: that the Statement of Claim be dismissed with prejudice, denying all relief requested by Claimant; reasonable attorneys' fees; cost and such other legal and/or equitable relief as the Panel deems just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

A pre-hearing telephone conference was held on May 31, 2005, to hear oral arguments on Respondent's Motion to Dismiss. After due consideration, the Panel denied Respondent's Motion with leave to renew at the hearings.

At the hearing the Panel heard Respondent's Motion for a Directed Verdict/ to Dismiss. After due consideration, the Panel denied the Motion.

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. Claimant's claims are dismissed in their entirety.
2. Claimant's request for attorney's fees is denied.
3. Claimant is liable and shall pay Respondent attorney's fees in the amount of \$16,811.00. The Panel granted Respondent attorney's fees pursuant to 22 NYCRR 130-1.1 et seq. See Silvestor Tafuro Design, Inc. v. Sachs, 1998 WL 257688 (S.D.N.Y. 1996).
4. Claimant is liable for and shall pay costs and disbursements in the amount of \$200.00 as set forth in Respondent's attorney's fee application.
5. Any and all relief not specifically addressed herein, 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 = \$ 250.00

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, Emcor is a party.

Member surcharge	= \$ 1,500.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 2,200.00

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 Panel @ \$1,000.00	= \$ 2,000.00
Pre-hearing conferences:	
April 26, 2005	1 session
May 31, 2005	1 session

Four (4) Hearing sessions @ \$1,000.00	= \$ 4,000.00
Hearing Dates:	
July 7, 2005	2 sessions
July 8, 2005	2 sessions

Total Forum Fees	= \$ 6,000.00
------------------	---------------

1. The Panel has assessed \$3,730.00 of the forum fees against Claimant.
2. The Panel has assessed \$2,250.00 of the forum fees against Respondent.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 250.00
<u>Forum Fees</u>	= \$ 3,750.00
Total Fees	= \$ 4,000.00
<u>Less payments</u>	= \$ 1,250.00
Balance Due NASD Dispute Resolution	= \$ 2,750.00

2. Respondent is solely liable for:

Member Fees	= \$ 4,450.00
<u>Forum Fees</u>	= \$ 2,250.00
Total Fees	= \$ 6,700.00
<u>Less payments</u>	= \$ 4,450.00
Balance Due NASD Dispute Resolution	= \$ 2,250.00

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

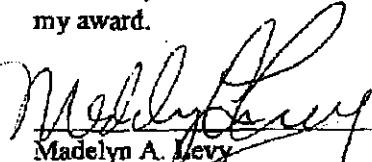
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Madelyn A. Levy	-	Public Arbitrator, Presiding Chairperson
John E. Rothschild	-	Public Arbitrator
Jane Venckus Zirlis	-	Non-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.



Madelyn A. Levy
Public Arbitrator, Presiding Chairperson

8/15/05

Signature Date

John E. Rothschild
Public Arbitrator

Signature Date

Jane Venckus Zirlis
Non-Public Arbitrator

Signature Date

August 17, 2005

Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

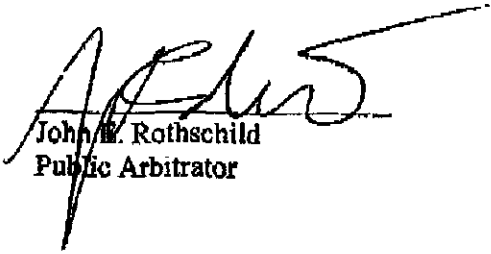
Madelyn A. Levy	-	Public Arbitrator, Presiding Chairperson
John E. Rothschild	-	Public Arbitrator
Jane Venckus Zirilis	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

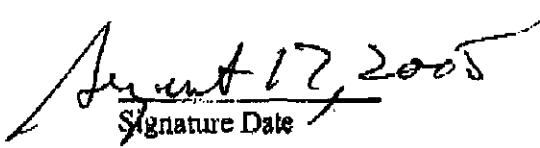
I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.

Madelyn A. Levy
Public Arbitrator, Presiding Chairperson

Signature Date



John E. Rothschild
Public Arbitrator



Signature Date

Jane Venckus Zirilis
Non-Public Arbitrator

Signature Date

August 17, 2005
Date of Service (For NASD Dispute Resolution use only)

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

ARBITRATION PANEL

Madelyn A. Levy	-	Public Arbitrator, Presiding Chairperson
John E. Rothschild	-	Public Arbitrator
Jane Venckus Zirlis	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

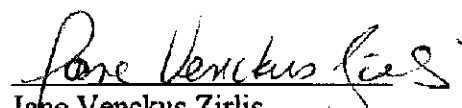
I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.

Madelyn A. Levy
Public Arbitrator, Presiding Chairperson

Signature Date

John E. Rothschild
Public Arbitrator

Signature Date


Jane Venckus Zirlis
Non-Public Arbitrator

8/23/05
Signature Date

August 17, 2005
Date of Service (For NASD Dispute Resolution use only)