

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Penson Financial Services, Inc., Claimant v. Eel River Investment Company, Respondent

Case Number: 04-08802

Hearing Site: Seattle, Washington

Nature of the Dispute: Member v. Customer

REPRESENTATION OF PARTIES

For Claimant Penson Financial Services, Inc.:

Wm. David Simmons, Esq.
McGuire, Craddock &
Strother, P.C.
Dallas, Texas

For Respondent Eel River Investment Company:

Veril Olson
Eel River Investment
Company
Olympia, Washington

CASE INFORMATION

Statement of Claim filed: December 29, 2004

Claimant's Uniform Submission Agreement signed: December 20, 2004

Statement of Answer filed by Respondent Eel River Investment Company: March 7, 2005

Respondent's Uniform Submission Agreement signed: February 22, 2005

CASE SUMMARY

Claimant asserted the following cause of action: breach of contract to pay for securities. The causes of action relate to the sale of short positions in stocks that subsequently rose in price. Claimant alleges that it incurred losses in purchasing securities to cover the short sales.

Unless specifically admitted in its Answer, Respondent denied the allegations of wrongdoing set forth in Claimant's Statement of Claim and asserted various affirmative defenses, including lack of authority and that Claimant knew or should have known that Respondent's funds on deposit at U.S. Bank were held in trust, subject to specified restrictions as to their use for investment purposes, and were unavailable to pay for the securities trades in question.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$1,771,593.15, pre-judgment and post-judgment interest, and costs, including attorney's fees.

Respondent requested dismissal of Claimant's Statement of Claim in its entirety, and costs, including attorney's fees.

OTHER ISSUES CONSIDERED AND DECIDED

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

AWARD

After considering the Stipulation of the parties, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Claimant shall have and recover \$1,850,000.00 from Respondent.
- 2) The parties shall bear their respective costs, including attorney's fees.
- 3) All other relief requested and not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee	= \$ 2,000.00
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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, the member firm Penson Financial Services, Inc. is a party, and the following fees are assessed:

Member Surcharge	= \$ 2,800.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$ 5,000.00</u>
Total Member Fees	= \$ 8,550.00

Three-Day Cancellation Fees

Three-day cancellation fees apply when a hearing on the merits is postponed or settled within three business days before the start of the first scheduled hearing session. The following three-day cancellation fees are assessed:

Cancellation of October 11-14, 2005 hearing dates: = \$ 300.00

1. The Panel assessed \$150.00 of the three-day cancellation to Claimant.
2. The Panel assessed \$150.00 of the three-day cancellation fee to Respondent.

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 Panel. The following fees are assessed:

One (1) pre-hearing conference session with the Panel @ \$1,200.00/session	= \$ 1,200.00
<u>Pre-hearing conference: May 5, 2005</u> <u>1 session</u>	
Total Forum Fees	= \$ 1,200.00

1. The Panel assessed \$600.00 of the forum fees to Claimant.
2. The Panel assessed \$600.00 of the forum fee to Respondent.

Fee Summary

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

Initial Filing Fee	= \$ 2,000.00
Member Fees	= \$ 8,550.00
Three-Day Cancellation Fee	= \$ 150.00
<u>Forum Fees</u>	<u>= \$ 600.00</u>
Total Fees	= \$ 11,300.00
Retained deposit pursuant to Rule 10332(f)	= \$ 600.00
<u>Less payments</u>	<u>= \$ (11,750.00)</u>
Balance Due NASD Dispute Resolution	= \$ 150.00

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

Three-Day Cancellation Fee	= \$ 150.00
<u>Forum Fees</u>	<u>= \$ 600.00</u>
Total Fees	= \$ 750.00
<u>Less payments</u>	<u>= \$ (0.00)</u>
Balance Due NASD Dispute Resolution	= \$ 750.00

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

ARBITRATION PANEL

Bernard W. McNallen	-	Public Arbitrator, Presiding Chair
William J. Bender	-	Public Arbitrator
Mark D. Roth	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Bernard W. McNallen
Chair, Public Arbitrator

3-9-06
Signature Date

William J. Bender
Public Arbitrator

Signature Date

Mark D. Roth
Non-Public Arbitrator

Signature Date

3/13/06
Date of Service


ARBITRATION PANEL

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William J. Bender	-	Public Arbitrator
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Chair, Public Arbitrator

Signature Date



William J. Bender
Public Arbitrator

3-06-06

Signature Date

Mark D. Roth
Non-Public Arbitrator

Signature Date

3/13/06

Date of Service

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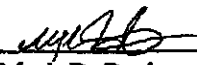
Concurring Arbitrators' Signatures

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Chair, Public Arbitrator

Signature Date

William J. Bender
Public Arbitrator

Signature Date



Mark D. Roth
Non-Public Arbitrator

3-6-06

Signature Date

3/13/06

Date of Service