

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

New Castle Financial Group Inc., Claimant v. Scott P. Holcomb, Respondent

Case Number: 05-00239

Hearing Site: Los Angeles, California

Nature of the Dispute: Member v. Customer

REPRESENTATION OF PARTIES

For Claimant:

Stanley S. Zinner, Esq.
Greene & Zimmer, P.C.
White Plains, New York

For Respondent:

Scott P. Holcomb, Esq.
In Propria Persona
Mission Viejo, California

CASE INFORMATION

Statement of Claim filed: January 14, 2005

Claimant's Uniform Submission Agreement signed: December 23, 2004

Statement of Answer filed: March 22, 2005

Respondent's Uniform Submission Agreement signed: December 12, 2005

CASE SUMMARY

Claimant alleged breach of contract and monies owed. Claimant's allegations involved the balance owed by Respondent for the purchase by Claimant of 50,000 shares of La Jolla Pharmaceutical Company stock on Respondent's behalf.

Respondent denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim.

RELIEF REQUESTED

Claimant requested \$135,204.25 in compensatory damages, interest, and costs, including attorney's fees.

Respondent requested dismissal of Claimant's Statement of Claim in its entirety and costs.

OTHER ISSUES CONSIDERED AND DECIDED

On November 16, 2005, Claimant moved the Panel to bar the Respondent from presenting any evidence during the hearing as a sanction for Respondent's repeated failure to provide discovery. Respondent filed an opposition to the motion on November 29, 2005. Claimant's filed a reply to Respondent's opposition on November 30, 2005. During the hearing, the parties presented arguments with respect to their positions. After due deliberation, the Panel granted the motion.

The parties 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, testimony, and evidence presented at the hearing, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondent is liable to and shall pay Claimant the sum of \$135,204.25 in compensatory damages.
- 2) Respondent is liable to and shall pay Claimant the sum of \$1,000.00 as reimbursement for filing fees.
- 3) Respondent is liable to and shall pay Claimant the sum of \$33,801.06 in attorney's fees, pursuant to contract.
- 4) With the exception of paragraph 3, the parties shall bear their respective costs, including attorney's fees.
- 5) 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	= \$1,000.00
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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 New Castle Financial Group Inc. is a party and the following fees are assessed:

Member Surcharge	= \$1,700.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$2,750.00</u>
Total Member Fees	= \$5,200.00

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 Chair or the parties and the Panel. The following fees are assessed:

One (1) Pre-hearing conference session with the Panel @ \$1,125.00/session	= \$1,125.00
Pre-hearing conference: August 18, 2005	1 session
Four (4) Hearing sessions @ \$1,125.00/session	= \$4,500.00
Hearings: December 12, 2005	2 sessions
December 13, 2005	2 sessions
Total Forum Fees	= \$5,625.00

The Panel assessed the entire balance of the forum fees, in the amount of \$5,625.00, to Respondent.

Fee Summary

1. Claimant New Castle Financial Group Inc. is charged with the following fees and costs:

Filing Fee	= \$ 1,000.00
<u>Member Fees</u>	<u>= \$ 5,200.00</u>
Total Due	= \$ 6,200.00
<u>Less payments</u>	<u>= \$(7,325.00)</u>
Balance Due NASD Dispute Resolution	= \$(1,125.00)

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

<u>Forum Fees</u>	<u>= \$ 5,625.00</u>
Balance Due NASD Dispute Resolution	= \$ 5,625.00

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

Robert E. Lawson, Sr., CPA
David W. Dresnick
Patricia J. Branco

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Public Arbitrator, Presiding Chair
Public Arbitrator
Non-Public Arbitrator

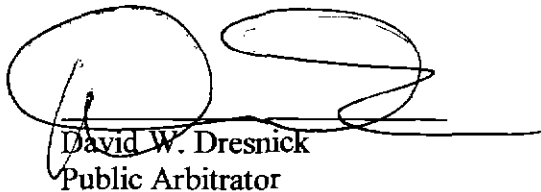
Concurring Arbitrators' Signatures



Robert E. Lawson, Sr., CPA
Chair, Public Arbitrator

12/13/05

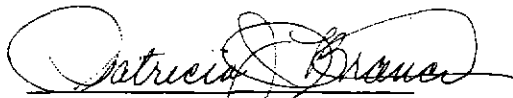
Signature Date



David W. Dresnick
Public Arbitrator

12/13/05

Signature Date



Patricia J. Branco
Non-Public Arbitrator

Dec. 13, 2005

Signature Date

December 13, 2005
Date of Service