

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Ehrenkrantz King Nussbaum, Inc., (Claimant) v. Jason Konior (Respondent)

Case Number: 05-00484

Hearing Site: New York City, New York

Nature of the Dispute: Member v. Associated Person.

REPRESENTATION OF PARTIES

Claimant Ehrenkrantz King Nussbaum, Inc., ("Claimant"): Robert M. Bursky, Esq., Law Office of Robert Bursky, Garden City, NY.

Respondent Jason Konior ("Respondent"): Lawrence R. Gelber, Esq., Lawrence R. Gelber, Attorney At Law, Brooklyn, NY.

CASE INFORMATION

Statement of Claim filed on or about: January 25, 2005.

Claimant signed the Uniform Submission Agreement.

Statement of Answer filed by Respondent Konior on or about: March 22, 2005.

Respondent Konior signed the Uniform Submission Agreement on or about: October 7, 2005.

CASE SUMMARY

Claimant asserted the following causes of action: fraudulent inducement; breach of contract; unjust enrichment; and injunctive relief. The causes of action relate to a breach of the employment agreement.

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

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$750,000.00; punitive damages in the amount of \$200,000.00; statutory interest at the rate of nine percent per annum; reasonable counsel fees; all expenses incurred in connection with this arbitration including but not limited to member surcharges; processing fees; arbitrator fees; and such other and further relief as the Panel deems just and proper.

Respondent Konior requested that he be awarded all costs, fees and expenses in connection with defending this case; reasonable attorneys' fees in an amount not less than \$12,500.00; expungement of this matter from his CRD record; and such other and further relief as the Panel deems just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

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, and the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent is liable for and shall pay to Claimant \$117,588.60 plus interest of 9% per annum accruing from January 1, 2005 until the Award is paid.
2. Respondent is liable for and shall pay to Claimant \$128,181.68 plus interest of 9% per annum accruing from the date of the Award until the Award is paid.
3. Any and all relief not specifically addressed herein including punitive damages, 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 = \$1,250.00

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, Ehrenkrantz King Nussbaum, Inc., is a party.

Member surcharge	= \$ 2,250.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 4,000.00

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:

One (1) Pre-hearing session with a single arbitrator @ \$450.00 per session = \$ 450.00
Pre-hearing conference: September 22, 2005 1 session

Three (3) Pre-hearing sessions with Panel @ \$1,200.00 per session = \$ 3,600.00
Pre-hearing conferences: June 7, 2005 1 session
October 7, 2005 1 session
December 1, 2005 1 session

Six (6) Hearing sessions @ \$1,200.00 per session = \$ 7,200.00
Hearing Dates: October 17, 2005 2 sessions
October 18, 2005 2 sessions
January 18, 2006 2 sessions

Total Forum Fees = \$ 11,250.00

1. The Panel has assessed \$5,625.00 of the forum fees against the Claimant.
2. The Panel has assessed \$5,625.00 of the forum fees against the Respondent.

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.

Ehrenkrantz King Nussbaum, Inc, requested eight tapes at \$15 per tape = \$ 120.00

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 1,250.00
Member Fees	= \$ 7,000.00
Administrative Costs	= \$ 120.00
<u>Forum Fees</u>	<u>= \$ 5,625.00</u>
Total Fees	= \$13,995.00
<u>Less payments</u>	<u>= \$ 9,450.00</u>
Balance Due NASD Dispute Resolution	= \$ 4,545.00

2. Respondent Konior is solely liable for:

<u>Forum Fees</u>	= \$ 5,625.00
<u>Total Fees</u>	= \$ 5,625.00
<u>Less payments</u>	= \$ 0.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 5,625.00

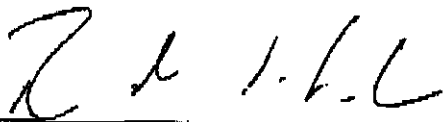
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Rory M. McLaughlin, Esq.	-	Public Arbitrator, Presiding Chairperson
Leona Beane, Esq.	-	Public Arbitrator
Thomas M. Campbell, Esq.	-	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.



Rory M. McLaughlin, Esq.
Public Arbitrator, Presiding Chairperson



Signature Date

Leona Beane, Esq.
Public Arbitrator

Signature Date

Thomas P. Campbell, Esq.
Non-Public Arbitrator

Signature Date

January 30, 2006

Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

Rory M. McLaughlin, Esq.
Leona Beane, Esq.
Thomas M. Campbell, Esq.

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

Concurring Arbitrators' Signatures

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Rory M. McLaughlin, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Leona Beane
Leona Beane, Esq.
Public Arbitrator

1/30/06
Signature Date

Thomas P. Campbell, Esq.
Non-Public Arbitrator

Signature Date

January 30, 2006

Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

Rory M. McLaughlin, Esq.	-	Public Arbitrator, Presiding Chairperson
Leona Beane, Esq.	-	Public Arbitrator
Thomas M. Campbell, Esq.	-	Non-Public Arbitrator

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Rory M. McLaughlin, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Leona Beane, Esq.
Public Arbitrator

Signature Date



Thomas M. Campbell, Esq.
Non-Public Arbitrator

26 January 2006.

Signature Date

January 30, 2006

Date of Service (For NASD Dispute Resolution use only)