
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Scott D. Winningham

Case Number: 05-01036

Name of the Respondent
Barclay A. Weyand

Hearing Site: Orlando, Florida

Nature of the Dispute: Associated Person v. Customer

REPRESENTATION OF PARTIES

Scott D. Winningham, hereinafter referred to as "Claimant", appeared *pro se*.

Barclay A. Weyand, hereinafter referred to as "Respondent", did not appear.

CASE INFORMATION

Statement of Claim filed on or about: April 7, 2005.

Claimant signed Uniform Submission Agreements: March 28, 2005 and May 6, 2005.

Respondent did not file an executed Uniform Submission Agreement or Statement of Answer.

CASE SUMMARY

Claimant asserted that Respondent's allegations against Claimant in NASD Dispute Resolution Arbitration No. 02-04488 are unfounded and without merit, and that NASD Dispute Resolution Arbitration No. 02-04488 is defamatory and should be expunged from Claimant's registration records maintained by the NASD Central Registration Depository ("CRD").

RELIEF REQUESTED

Claimant requested expungement of NASD Dispute Resolution Arbitration No. 02-04488 from Claimant's registration records maintained by the NASD CRD.

OTHER ISSUES CONSIDERED AND DECIDED

Upon review of the file and the representations made by/on behalf of the Claimant, the undersigned arbitrators (the "Panel") determined that Respondent has been properly served with the Statement of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without said Respondent present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

Respondent did not file with NASD Dispute Resolution a properly executed Uniform Submission Agreement but is required to submit to arbitration pursuant to the Code and is bound by the determination of the Panel on all issues submitted.

AWARD

After considering the pleadings and the testimony and evidence of Claimant, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

The Panel recommends the expungement of all reference to NASD Dispute Resolution Arbitration No. 02-04488 from Claimant Scott D. Winningham's registration records maintained by the Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 04-16, Claimant Scott Winningham must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

Unless specifically waived in writing by the NASD, parties seeking judicial confirmation of an arbitration award containing expungement relief must name NASD as an additional party and serve NASD with all appropriate documents.

Pursuant to Rule 2130, the arbitration panel has made the following affirmative findings of fact:

The claim, allegation, or information is false.

Any and all claims for relief not specifically address herein are denied.

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	= \$ 250.00
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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 event(s) giving rise to the dispute. Accordingly, Merrill Lynch, Pierce Fenner & Smith Incorporated ("Merrill Lynch") employed the associated person at the time of the event(s) giving rise to the dispute and is a member firm.

Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$2,200.00
Total Member Fees	= \$4,450.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

There were no adjournment fees assessed during the 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 the 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 arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with the Panel @ \$1,000.00/session = \$ 1,000.00
Pre-hearing conference: August 9, 2005 1 session

Two (2) Hearing Sessions with the Panel @ \$1,000.00/session =\$ 2,000.00
Hearing Dates: October 17, 2005 1 session
June 5, 2006 1 session

Total Forum Fees = \$3,000.00

The Panel has assessed \$3,000.00 of the forum fees to Claimant.

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

Claimant is solely liable for:

Initial Filing Fee	= \$ 250.00
Forum Fees	= \$3,000.00
Total Fees	= \$3,250.00
Less payments	= \$ 250.00
Balance Due NASD Dispute Resolution	= \$3,000.00

Merrill Lynch is solely liable for:

Member Fees	= \$4,450.00
Total Fees	= \$4,450.00
Less payments	= \$4,450.00
Balance Due NASD Dispute Resolution	= \$ 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

Ronald W. Devoe	-	Public Arbitrator, Presiding Chairperson
Charles H. Deal	-	Public Arbitrator
Kjell W. Pettersen	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/

Ronald W. Devoe
Public Arbitrator, Presiding Chairperson

06/09/06

Signature Date

/s/

Charles H. Deal
Public Arbitrator

06/08/06

Signature Date

/s/

Kjell W. Pettersen
Non-Public Arbitrator

06/08/06

Signature Date

06/09/06

Date of Service (For NASD Dispute Resolution office use only)

NASD Dispute Resolution

Arbitration No. 05-01036

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Ronald W. Devoe
Public Arbitrator, Presiding Chairperson

June 9 2006
Signature Date

Charles H. Deal
Public Arbitrator

Signature Date

Kjell W. Pettersen
Non-Public Arbitrator

Signature Date

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Jun. 8. 2006 4:13PM

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Public Arbitrator, Presiding Chairperson

Signature Date



Charles H. Deal
Public Arbitrator

06/08/2006

Signature Date

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Public Arbitrator, Presiding Chairperson

Signature Date

Charles H. Deal
Public Arbitrator

Signature Date



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Non-Public Arbitrator



Signature Date

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