

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Claimant

Robert E. Elkins

and

Case Number: 05-01421
Hearing Site: Detroit, Michigan

Respondents

Ferris, Baker Watts, Inc., Joseph Clark Koch,
Robert James Michelotti, Theodore Walter Urban,
and Patrick James Vaughan

NATURE OF DISPUTE

Associated Person v. Members and Associated Persons

REPRESENTATION OF PARTIES

Robert E. Elkins ("Claimant") appeared in pro per.

Ferris, Baker Watts, Inc. ("FBW") and Joseph Clark Koch ("Koch"), Robert James Michelotti ("Michelotti"), Theodore Walter Urban ("Urban"), and Patrick James Vaughan ("Vaughan"), hereinafter referred to collectively as "Respondents," were represented by Dana S. Gloor, Esq., Ferris Baker Watts, Inc., Baltimore, Maryland.

CASE INFORMATION

The Statement of Claim was filed on or about March 17, 2005. The Amended Statement of Claim was filed on or about June 14, 2005. The Submission Agreement of Robert E. Elkins was signed on or about March 15, 2005, and June 9, 2005.

The Motion to Dismiss and Statement of Answer was filed jointly by Ferris, Baker Watts, Inc., Joseph Clark Koch, Robert James Michelotti, Theodore Walter Urban, and Patrick James Vaughan on or about June 15, 2005.

Claimant submitted an Answer to Request for Dismissal on or about July 1, 2005. Claimant submitted a Supplemental Answer and Further Argument to Respondents' Motion for Dismissal on or about September 15, 2005.

CASE SUMMARY

Claimant asserted causes of action including the following: breach of contract, fraud, misrepresentation, violations of Michigan law, employment retaliation, libel or slander on Form U-5, defamation, and filing of misleading information as to membership or registration. The causes of action related to Claimant's allegations that Respondent Koch harassed Claimant and failed to provide Claimant with assistance to implement Claimant's marketing plan and that Respondents Koch and Michelloti conspired to inflict mental distress upon Claimant during his employment with FBW. Claimant also alleged that Respondent FBW published defamatory statements on Claimant's Form U-5 after Claimant was terminated.

Respondents submitted a general denial of the material allegations of the Statement of Claim and asserted defenses of the doctrine of res judicata, applicable statutes of limitation and failure to state claims upon which relief can be granted.

RELIEF REQUESTED

Claimant requested an award in an amount in excess of \$2,250,000.00 (comprised of compensatory damages of \$250,000.00 and punitive/exemplary damages of \$2,000,000.00), plus costs, an order requiring FBW to remove the allegedly defamatory statements published on his Form U-5, and other relief the panel deemed appropriate.

Respondents requested that the claims asserted against them be denied in their entirety.

OTHER ISSUES CONSIDERED & DECIDED

Respondents Ferris, Baker Watts, Inc., Joseph Clark Koch, Robert James Michelotti, Theodore Walter Urban, and Patrick James Vaughan did not file with NASD Dispute Resolution properly executed submissions to arbitration but are required to submit to arbitration pursuant to Rule 10301 of the NASD Code of Arbitration Procedure (the "Code") and having answered the claim, and appeared through counsel and testified at the pre-hearing conference, are bound by the determination of the arbitration panel on all issues submitted.

The parties accepted the composition of the panel.

After oral arguments on October 28, 2005, the panel granted Respondents' Motion to Dismiss based upon res judicata.

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. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with NASD Dispute Resolution ("NASD").

AWARD

After considering the pleadings and the arguments presented during the pre-hearing conference, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

- 1.) Claimant's claims, each and all, are denied and dismissed with prejudice;
- 2.) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and
- 3.) Any relief not specifically enumerated, including punitive and exemplary damages, is hereby denied with prejudice.

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 = \$ 500.00

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 persons at the time of the events giving rise to the dispute. In this matter, the member firm is Ferris, Baker Watts, Inc.

Member surcharge = \$ 2,800.00
Pre-hearing process fee = \$ 750.00
Hearing process fee = \$ 5,000.00

Forum Fees and Assessments

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing 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:

Two (2) Pre-hearing sessions with Panel x \$1,200.00	= \$ 2,400.00
Pre-hearing conferences: September 23, 2005	1 session
October 28, 2005	1 session
Total Forum Fees	= \$ 2,400.00

The Arbitration Panel has assessed \$2,400.00 of the forum fees jointly and severally to Ferris, Baker Watts, Inc., Joseph Clark Koch, Robert James Michelotti, Theodore Walter Urban, and Patrick James Vaughan.

Fee Summary

Claimant, Robert E. Elkins, is liable for:

<u>Initial Filing Fee</u>	= \$ 500.00
<u>Total Fees</u>	= \$ 500.00
<u>Less payments</u>	= \$ 500.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 0.00

Respondent, Ferris, Baker Watts, Inc., is liable for:

<u>Member Fees</u>	= \$ 8,550.00
<u>Total Fees</u>	= \$ 8,550.00
<u>Less payments</u>	= \$ 8,550.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 0.00

Respondents, Ferris, Baker Watts, Inc., Joseph Clark Koch, Robert James Michelotti, Theodore Walter Urban, and Patrick James Vaughan, are jointly and severally liable for:

<u>Forum Fees</u>	= \$ 2,400.00
<u>Total Fees</u>	= \$ 2,400.00
<u>Less payments</u>	= \$ 0.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 2,400.00

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

ARBITRATION PANEL

Roman S. Gribbs, Esq. - Public Arbitrator, Presiding Chair
Peter P. Cobbs, Esq. - Public Arbitrator
Lawrence George Kloth, Sr. - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Roman S. Gribbs, Esq.
Roman S. Gribbs, Esq.
Public Arbitrator, Presiding Chair

10/28/05
Signature Date

/s/ Peter P. Cobbs, Esq.
Peter P. Cobbs, Esq.
Public Arbitrator

10/28/05
Signature Date

/s/ Lawrence George Kloth, Sr.
Lawrence George Kloth, Sr.
Non-Public Arbitrator


10/28/05
Signature Date

10/28/05
Date of Service (For NASD office use only)

ARBITRATION PANEL

Roman S. Gibbs, Esq. - Public Arbitrator, Presiding Chair
Peter P. Cobbs, Esq. - Public Arbitrator
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Public Arbitrator, Presiding Chair

Signature Date

Peter P. Cobbs
Peter P. Cobbs, Esq.
Public Arbitrator

October 28, 2005
Signature Date

Lawrence George Kloth, Sr.
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)