

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Stephen Richard DeMarie (Claimant) v. Metlife Securities, Inc. and Rocco Capobianco (Respondents)

Case Number: 05-01548

Hearing Site: Buffalo, New York

Nature of the Dispute: Associated Person vs. Member and Associated Person

REPRESENTATION OF PARTIES

Stephen Richard DeMarie, hereinafter referred to as "Claimant": Donald G. McGrath, Esq., McGrath & Polvino, PLLC, Williamsville, NY.

Respondents Metlife Securities, Inc. ("Metlife") and Rocco Capobianco ("Capobianco"), hereinafter collectively referred to as "Respondents": John A. Berg, Esq., Connelly Sheehan Harris, Chicago, IL.

CASE INFORMATION

Statement of Claim filed on or about: March 24, 2005.

Claimant signed the Uniform Submission Agreement: February 25, 2005.

Statement of Answer filed by Respondents on or about: June 8, 2005.

Metlife signed the Uniform Submission Agreement: June 1, 2005.

Capobianco did not submit a signed Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: wrongful termination and defamation.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

In his initial claim Claimant requested compensatory damages in the amount \$20,000.00 and expungment of his CRD record. In his amended claim Claimant requested compensatory damages in the amount of \$2,000,000.00, expungment of his CRD record and such other relief as the Panel deems appropriate.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Capobianco 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, having answered the claim and appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

On July 25, 2005 Claimant amended his claim, increasing his request for compensatory damages.

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

1. Claimant's claims are dismissed in their entirety.
2. Any and all relief not specifically addressed herein 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	= Waived
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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 giving rise to the dispute. Accordingly, Metlife Securities, Inc., is a party.

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

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted or each decision rendered on a discovery-related motion on the papers. 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	= \$ 450.00
Pre-hearing conference: February 2, 2006 1 session	

One (1) Pre-hearing sessions with Panel @ \$1,200.00	= \$ 1,200.00
Pre-hearing conference: November 17, 2005 1 session	

Four (4) Hearing sessions @ \$1,200.00	= \$ 4,800.00
Hearing Dates: February 13, 2005 2 sessions	
February 14, 2005 2 sessions	
<hr/> Total Forum Fees	<hr/> = \$ 6,450.00

1. The Panel has assessed \$ 3,225.00 of the forum fees to Claimant.
2. The Panel has assessed \$ 3,225.00 of the forum fees to Metlife.

Fee Summary

1. Claimant is solely liable for:

Forum Fees	= \$ 3,225.00
Total Fees	= \$ 3,225.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 3,225.00

3. Respondent Metlife is solely liable for:

Member Fees	= \$ 8,550.00
Forum Fees	= \$ 3,225.00
Total Fees	= \$11,775.00
Less payments	= \$ 8,550.00
Balance Due NASD Dispute Resolution	= \$ 3,225.00


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

ARBITRATION PANEL

Philip Marshall, Esq.	-	Public Arbitrator, Presiding Chairperson
Christopher C. Willett, Esq.	-	Public Arbitrator
James A. Joseph	-	Non-Public Arbitrator

Concurring Arbitrators' Signature

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 is which is my award.



Philip Marshall, Esq.
Public Arbitrator, Presiding Chairperson



Signature Date

Christopher C. Willett, Esq.
Public Arbitrator

Signature Date

James A. Joseph
Non-Public Arbitrator

Signature Date



Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL


Philip Marshall, Esq.	-	Public Arbitrator, Presiding Chairperson
Christopher C. Willett, Esq.	-	Public Arbitrator
James A. Joseph	-	Non-Public Arbitrator

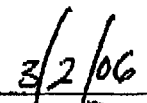
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Public Arbitrator, Presiding Chairperson


Signature Date


Christopher C. Willett, Esq.
Public Arbitrator


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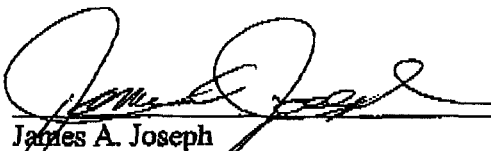
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Philip Marshall, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Christopher C. Willett, Esq.
Public Arbitrator

Signature Date



James A. Joseph
Non-Public Arbitrator



Signature Date

March 2, 2006

Date of Service (For NASD Dispute Resolution use only)