

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Frank Ferrante (Claimant) v. BrokerageAmerica, LLC and Andrew Sycoff (Respondents)

Case Number: 05-01704

Hearing Site: Newark, New Jersey

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

REPRESENTATION OF PARTIES

Claimant Frank Ferrante hereinafter referred to as "Claimant": Peter C. Lucas, Esq., and Lourdes Lucas, Esq., Lucas & McGoughran, LLC, Oakhurst, NJ.

Respondents BrokerageAmerica, LLC ("BrokerageAmerica") and Andrew Sycoff ("Sycoff"), hereinafter referred to as "Respondents": Revan R. Schwartz, Brokerage America, New York, NY. Previously represented by Anthony J. Durone, Esq., Berkowitz, Oliver, Williams, Shaw & Eisenbrandt LLP, Kansas City, MO.

CASE INFORMATION

Statement of Claim filed on or about: March 30, 2005.

Amended Statement of Claim filed on or about: May 17, 2005.

Claimant signed the Uniform Submission Agreement: March 22, 2005.

Statement of Answer and Motion to Dismiss Sycoff filed by Respondents on or about: May 23, 2005.

BrokerageAmerica signed the Uniform Submission Agreement: May 23, 2005.

Sycoff signed the Uniform Submission Agreement: May 23, 2005.

CASE SUMMARY

Claimant asserted the following causes of action: breach of employment agreement and tortious interference.

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

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$196,732.33, punitive damages in the amount of \$885,500.00, attorneys' fees and costs of suit, and other relief as may be just and equitable.

Respondents requested that the Panel enter an Award in their favor and against Claimant, together with their reasonable attorneys' fees, and that all costs of this proceeding be assessed against Claimant. In addition, Respondents requested that Sycoff be dismissed and the action proceed only against BrokerageAmerica.

OTHER ISSUES CONSIDERED AND DECIDED

On September 30, 2005, the Panel conducted a telephonic pre-hearing conference with the parties to address Respondent Sycoff's Motion to Dismiss. The Panel reviewed all submissions and considered all oral arguments and, after due deliberation, by Order dated September 30, 2005, granted, without prejudice Respondent Sycoff's Motion. Accordingly, Respondent Sycoff was dismissed, without prejudice.

Respondent BrokerageAmerica did not appear at the January 24, 2006 hearing.

Upon review of the file and the representations made on behalf of the Claimant, the undersigned arbitrators the "Panel" determined that Respondent BrokerageAmerica 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").

Prior to the commencement of the hearing, Claimant made a Motion to Strike the Answer of Respondent BrokerageAmerica; Respondent BrokerageAmerica did not submit a response to this Motion. At the hearing, after due deliberation, the Panel granted this Motion with prejudice.

At the hearing, Claimant made a Motion to Amend to add Andrew Sycoff and Andrew Garrett, and to add a count of fraudulent inducement as to Andrew Sycoff. The panel denied this Motion with prejudice.

The Claimant, the only party to participate in the hearing, has 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. Respondent BrokerageAmerica is liable for and shall pay to Claimant compensatory damages in the amount of \$165,659.00 plus interest at the rate 2 % per annum from July 1, 2004 until the Award is paid in full.

2. Respondent BrokerageAmerica is liable for and shall pay to Claimant attorneys' fees in the amount of \$9,200.00. The Panel awarded attorneys' fees in accordance with New Jersey statutes: NJSA 2A:23B-21, NJSA 2A:156A-32, and NJSA 2A:17-56.11.
3. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Andrew Sycoff's registration records maintained by the Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 04-16, Respondent Andrew Sycoff 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 of the NASD Code of Arbitration Procedure, the arbitration panel has made the following affirmative findings of fact: the claim, allegation, or information is false.

4. 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	= \$500.00
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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 firms that employed the associated persons at the time of the events giving rise to the dispute. Accordingly, BrokerageAmerica 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. 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:

Three (3) Pre-hearing sessions with Panel @ \$1,200.00 = \$3,600.00

Pre-hearing conferences: August 24, 2005 1 session
 September 30, 2005 1 session
 January 23, 2006 1 session

One (1) Hearing session @ \$1,200.00 = \$1,200.00

Hearing Date : January 24, 2006 1 session

Total Forum Fees = \$4,800.00

1. The Panel has assessed \$4,800.00 of the forum fees against Respondent BrokerageAmerica.

Fee Summary

1. Claimant is solely liable for:

<u>Initial Filing Fee</u>	= \$ 500.00
Total Fees	= \$ 500.00
<u>Less payments</u>	= \$ 1,700.00
Refund Due Claimant	= \$ 1,200.00

2. Respondent BrokerageAmerica is solely liable for:

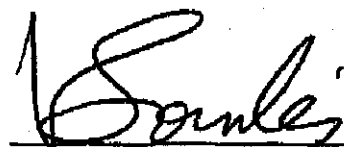
Member Fees	= \$ 8,550.00
Forum Fees	= \$ 4,800.00
Total Fees	= \$13,350.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$13,350.00

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

ARBITRATION PANEL

Virginia Kali Sourlis, Esq.	-	Non-Public Arbitrator, Presiding Chair
Noreen M. Fitzgerald	-	Non-Public Arbitrator
Kent J. Roth	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Virginia Kali Sourlis, Esq.
Non-Public Arbitrator, Presiding Chairperson

1/30/06
Signature Date

Noreen M. Fitzgerald
Non-Public Arbitrator

Signature Date

Kent J. Roth
Non-Public Arbitrator

Signature Date

February 2, 2006

Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

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Non-Public Arbitrator



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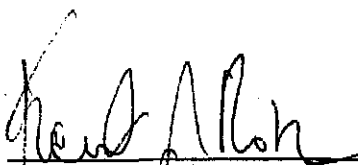
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