

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

George Eischen and Joseph Fricke Co-Trustees of the Gresham Sports Care, Inc. Profit Sharing 401(k) Plan, Claimant v. Smith Barney n/k/a Citigroup Global Markets, Inc., Respondent

Case Number: 05-02567

Hearing Site: Portland, Oregon

Nature of the Dispute: Customers v. Member

REPRESENTATION OF PARTIES

For Claimant:

Diane E. Godwin, Esq.
Law Offices of Diana E. Godwin
Portland, Oregon

For Respondent:

Rebecca J. Nelson, Esq.
Citigroup Global Markets, Inc.
New York, New York

CASE INFORMATION

Statement of Claim filed: May 16, 2005

Claimant's Uniform Submission Agreement signed: May 2, 2005

Statement of Answer filed by Respondent: July 5, 2005

Respondent's Uniform Submission Agreement signed: July 1, 2005

CASE SUMMARY

George Eischen and Joseph Fricke, co-trustees of the Gresham Sports Care, Inc. Profit Sharing 401(k) Plan, alleged that Respondent negligently calculated the amount owing to a terminated employee under its Profit Sharing 401(k) Plan, and, as a result, issued a check to that employee in the amount of \$9,225.64. That amount included an overpayment to the employee of \$4,299.37.

Respondent denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim and set forth affirmative defenses.

RELIEF REQUESTED

Claimant requested \$4,299.37 in compensatory damages, interest at the rate of 9% per annum from May 6, 2004 to the date of payment, and costs, including attorney's fees.

Respondent requested dismissal of the Claimant's Statement of Claim in its entirety, and costs, including attorney's fees.

OTHER ISSUES CONSIDERED AND DECIDED

The parties agreed that a handwritten, signed Award may be entered.

AWARD

After considering the pleadings, testimony, evidence presented at the hearing, and the post-hearing submissions, the Arbitrator decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondent is liable to and shall pay Claimant compensatory damages in the sum of \$4,299.37.
- 2) Respondent is liable to and shall pay Claimant interest at a rate of 9% per annum on the sum of \$4,299.37 from April 8, 2005 until this award is paid in full.
- 3) Respondent is liable to and shall pay Claimant the sum of \$7,307.44 in attorney's fees and costs.
- 4) Except as awarded above, the parties shall bear their respective costs, including attorney's fees.
- 5) All other relief requested and not expressly granted is denied.

FEEs

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

| | |
|--------------------------|------------|
| Initial claim filing fee | = \$ 50.00 |
|--------------------------|------------|

Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm Salmon Smith Barney n/k/a/ Citigroup Global Markets, Inc. is a party and the following fees are assessed:

| | |
|--------------------------|--------------------|
| Member Surcharge | = \$ 200.00 |
| Total Member Fees | = \$ 200.00 |

Forum Fees and Assessments

The Arbitrator assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair or the parties and the Panel. The following fees are assessed:

| | |
|--|--------------------|
| (2) Pre-hearing conference sessions with a single arbitrator @ \$ 125.00/session | = \$ 250.00 |
| Pre-hearing conferences: | |
| August 31, 2005 | 1 session |
| September 6, 2005 | 1 session |
| (2) Hearing sessions @ \$125.00/session | = \$ 250.00 |
| Hearing: | |
| November 30, 2005 | 2 sessions |
| Total Forum Fees | = \$ 500.00 |

The Arbitrator assessed \$500.00 of the forum fees to Respondent.

Fee Summary

1. Claimant is charged with the following fees and costs:

| | |
|----------------------------|---------------------|
| Initial Filing Fee | = \$ 50.00 |
| Less payments | = \$(175.00) |
| Refund Due Claimant | = \$(125.00) |

2. Respondent is charged with the following fees and costs:

| | |
|--|--------------------|
| Member Fees | = \$ 200.00 |
| Forum Fees | = \$ 500.00 |
| Total Fees | = \$ 700.00 |
| Less payments | = \$(400.00) |
| Balance Due NASD Dispute Resolution | = \$ 300.00 |

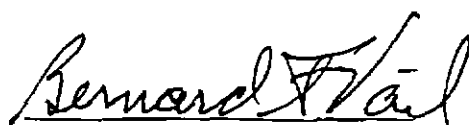
All balances are payable to NASD Dispute Resolution and are due upon the receipt of the Award pursuant to Rule 10330(g) of the Code.

ARBITRATOR

Bernard F. Vail

Public Arbitrator, Presiding Chair

Arbitrator's Signature



Bernard F. Vail

Dec. 14, 2005
Signature Date

12/14/05
Date of Service