

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Claimant

Gerald Krause

v.

05-02844

Minneapolis, Minnesota

Respondents

Feltl and Company, Inc. and John Feltl

NATURE OF DISPUTE

Associated Person v. Member and Associated Person

REPRESENTATION OF PARTIES

Gerald Krause ("Claimant") was represented by Robert C. Moilanen, Esq., of Zimmerman Reed, P.L.L.P., Minneapolis, Minnesota.

Feltl and Company, Inc. ("Feltl and Company") and John Feltl ("John Feltl"), hereinafter collectively referred to as "Respondents," were represented by F. Chet Taylor, Esq., of Taylor Law Firm, PLC, Minneapolis, Minnesota.

CASE INFORMATION

The Statement of Claim was filed on or about May 10, 2005. The Submission Agreement of Claimant was signed on or about May 9, 2005.

The Statement of Answer was filed jointly by Feltl and Company, Inc. and John Feltl on or about August 2, 2005. The Submission Agreement of Feltl and Company, Inc., was signed on or about August 2, 2005 by Michael B. Schierman, Chief Financial Officer, Feltl and Company, Inc. The Submission Agreement of John Feltl was signed on or about August 2, 2005.

CASE SUMMARY

Claimant asserted causes of action including the following: promissory estoppel, unjust enrichment, breach of contract, tortious interference and violation of NASD Rules. Claimant alleged that he originated the initial public offering ("IPO") for World Poker Tours Enterprises, Inc., and that he was not provided with adequate compensation as to his involvement in the IPO. Claimant further alleged that he was allocated an inadequate amount of shares to sell during the IPO process, was directed by John Feltl as to whom he could sell most of those shares to and that his existing institutional client

and its purchase in the IPO were wrongfully transferred away from him. Claimant asserted that because of these restrictions he was unable to generate sufficient commissions and unable to develop his own client relationships for generating future business.

Respondents denied the allegations set forth in the Statement of Claim and asserted defenses including the following: Claimant failed to state any claims upon which relief could be granted and Claimant's claims are barred, in whole or in part, by the legal and equitable doctrines of estoppel, waiver, laches and ratification.

RELIEF REQUESTED

Claimant requested an award in excess of \$100,000 in compensatory damages, plus attorneys, fees, costs and such other relief as the Panel deemed appropriate.

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded their costs and attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDED

At the conclusion of Claimant's case-in-chief, Respondents orally moved for the Panel to dismiss Claimant's claims and, in the alternative, to dismiss Respondent John Feltl. After deliberation, the Panel denied Respondents' requests.

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 originals remain on file with NASD Dispute Resolution ("NASD").

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent, Feltl and Company, Inc., is liable for and shall pay to Claimant, Gerald Krause, the sum of Thirty Three Thousand Six Hundred Dollars and No Cents (\$33,600.00) in compensatory damages;
2. Respondent, Feltl and Company, Inc., is liable for and shall pay to Claimant, Gerald Krause, interest on the above stated sum at the Minnesota statutory rate from and including the date of service of this Award through and including the date this Award is paid in full;

3. Claimant's claims against Respondent, John Feltl, are denied and dismissed with prejudice in their entirety;
4. To the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto, are denied with prejudice; and
5. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys' fees.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain the non-refundable filing fee for each claim:

Initial claim filing fee = \$ 300

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 events giving rise to the dispute. In this matter, the member firm is Feltl and Company, Inc.

Member surcharge = \$ 1,700
Pre-hearing process fee = \$ 750
Hearing process fee = \$ 2,750

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 arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Decision on discovery-related motions on the papers by the chairperson x \$200.00

Claimant submitted a Motion to Allow the Introduction of Declarations and Respondents' submitted a Motion to Compel = \$ 200

One (1) Pre-hearing session with Panel x \$ 1,125 = \$ 1,125

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|---|------------------|------------|------------|
| Pre-hearing conference: | October 17, 2005 | 1 session | |
| Five (5) Hearing sessions with Panel x \$ 1,125 | | | = \$ 5,625 |
| Hearing Dates: | February 6, 2006 | 2 sessions | |
| | February 7, 2006 | 2 sessions | |
| | February 8, 2006 | 1 session | |
| <hr/> Total Forum Fees | | | = \$ 6,950 |

The Arbitration Panel has assessed \$ 3,475 of the forum fees to Gerald Krause.

The Arbitration Panel has assessed \$ 3,475 of the forum fees to Feltl and Company, Inc.

FEE SUMMARY

Claimant, Gerald Krause, is liable for:

| | |
|-------------------------------------|------------|
| Initial Filing Fee | = \$ 300 |
| Forum Fees | = \$ 3,475 |
| <hr/> Total Fees | = \$ 3,775 |
| <u>Less payments</u> | = \$ 1,425 |
| Balance Due NASD Dispute Resolution | = \$ 2,350 |

Respondent, Feltl and Company, Inc., is liable for:

| | |
|-------------------------------------|------------|
| Member Fees | = \$ 5,200 |
| Forum Fees | = \$ 3,475 |
| <hr/> Total Fees | = \$ 8,675 |
| <u>Less payments</u> | = \$ 3,550 |
| Balance Due NASD Dispute Resolution | = \$ 5,125 |

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

ARBITRATION PANEL

David R. Bergerson, Esq. - Public Arbitrator, Presiding Chair
Thomas J. Gmeinder, Esq. - Public Arbitrator
Edward C. Oliver - Non-Public Arbitrator

Concurring Arbitrators:

David R. Bergerson, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Thomas J. Gmeinder, Esq.
Public Arbitrator

Signature Date

Edward C. Oliver
Non-Public Arbitrator

Signature Date

2/11/06
Date of Service (NASD use only)

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Concurring Arbitrator:

David R. Bergerson
David R. Bergerson, Esq.
Public Arbitrator, Presiding Chair

2/9/06
Signature Date

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Public Arbitrator

Signature Date

Edward C. Oliver
Non-Public Arbitrator

Signature Date

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Public Arbitrator

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Edward C. Oliver
Non-Public Arbitrator

2-9-06

Signature Date

2/10/06

Date of Service (NASD use only)