

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Claimant

Paul C. Spoelstra

and

Case Number: 05-02931
Hearing Site: Southfield, Michigan

Respondents

Daniel J. Healy and
Paula Kay Clum

NATURE OF DISPUTE

Associated Person v. Associated Persons

REPRESENTATION OF PARTIES

Paul C. Spoelstra ("Claimant") was represented by Anthony Paduano, Esq., and Willard Knox, Esq., Paduano & Weintraub LLP, New York, New York.

Daniel J. Healy ("Healy") and Paula Kay Clum ("Clum"), hereinafter referred to as "Respondents," were represented by Daniel J. Langdon, Esq., Daniel J. Langdon PLC, Grand Rapids, Michigan. Claimant was represented by Sean P. Fitzgerald, Sean P. Fitzgerald PLC, Grand Rapids, Michigan, until on or about August 11, 2005.

CASE INFORMATION

The Statement of Claim was filed on or about June 6, 2005. The Submission Agreement of Claimant was signed on or about June 15, 2006.

The Statement of Answer was filed jointly by Respondents on or about August 16, 2005. The Submission Agreement of Healy was signed on or about June 30, 2006. The Submission Agreement of Clum was signed on or about June 30, 2006.

CASE SUMMARY

Claimant asserted the following causes of action: breach of contract, tortious interference with business relationships, and defamation. The causes of action related to Claimant's allegations that Respondents breached the terms of a Practice Agreement ("Agreement") between Claimant and Healy whereby Healy was to purchase a portion of Claimant's client base. Claimant asserted that Respondents solicited Claimant's entire client bases rather than those purchased by Healy and defamed Claimant in the solicitation process.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: Claimant's claims are barred for failure to state a claim upon which relief can be granted; Claimant's claims are barred for failure to state in particular, facts that support the claim of defamation; Claimant's claims are barred by the equitable doctrines of unclean hands and waiver; and Claimant's claims are barred for his failure to mitigate any alleged damages.

RELIEF REQUESTED

Claimant requested:

Compensatory and Prospective damages	\$ 464,053.83
Punitive Damages	\$ unspecified
Attorneys' Fees	\$ unspecified
Other Monetary/Non-Monetary Relief:	\$ unspecified

At the hearing Claimant offered evidence of damages in the amount of approximately \$662,000 and requested additional damages for defamation and interest.

Respondents requested that the claims asserted against them be dismissed in their entirety, that they be awarded their costs and attorneys' fees, and any further and additional relief the panel deemed appropriate.

OTHER ISSUES CONSIDERED & DECIDED

Claimant and Respondents each requested production costs, which requests are denied.

At the hearing, the panel requested that the parties file post-hearing submissions no later than July 24, 2006.

Claimant filed a post-hearing submission on July 21, 2006. On July 24, 2006, Respondents filed a Motion to Continue and/or Re-Open Proceedings to Allow them to Respond to Claimant's July 21, 2006 Letter to NASD. On July 24, 2006, Claimant filed an Opposition to Respondents' Motion. The panel denied the Motion.

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

- 1.) Respondent, Daniel J. Healy, is solely liable for and shall pay to Claimant, Paul C. Spoelstra, the sum of \$602,822.00 in compensatory damages;
- 2.) Respondent, Paula Kay Clum, is solely liable for and shall pay to Claimant, Paul C. Spoelstra, the sum of \$15,000.00 in compensatory damages;
- 3.) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and
- 4.) Any relief not specifically enumerated, including attorneys' fees, 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 = \$ 300.00

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 Ameriprise Financial Services.

Member surcharge = \$ 1,700.00
Pre-hearing process fee = \$ 750.00
Hearing process fee = \$ 2,750.00

Adjournment Fees

Adjournments requested during these proceedings:

July 18, 2006, adjournment requested jointly (Fee waived by panel) = \$ 1,125.00

Forum Fees and Assessments

The Panel has assessed forum fees for each hearing session conducted and each decision rendered on a discovery-related motion on the papers. 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 \$1,125.00	= \$ 2,250.00
Pre-hearing conferences: December 9, 2005	1 session
December 15, 2005	1 session
Four (4) Hearing sessions x \$1,125.00	= \$ 4,500.00
Hearing Dates: July 19, 2006	2 sessions
July 20, 2006	2 sessions
Total Forum Fees	= \$ 6,750.00

The Arbitration Panel has assessed \$6,750.00 of the forum fees jointly and severally to Daniel J. Healy and Paula Kay Clum.

Fee Summary

Claimant, Paul C. Spoelstra, is liable for:

<u>Initial Filing Fee</u>	= \$ 300.00
<u>Total Fees</u>	= \$ 300.00
<u>Less payments</u>	= \$ 1,425.00
Balance Refunded by NASD Dispute Resolution	= \$ 1,125.00

Ameriprise Financial Services is liable for:

<u>Member Fees</u>	= \$ 5,200.00
<u>Total Fees</u>	= \$ 5,200.00
<u>Less payments</u>	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents, Daniel J. Healy and Paula Kay Clum, are jointly and severally liable for:

<u>Forum Fees</u>	= \$ 6,750.00
<u>Total Fees</u>	= \$ 6,750.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 6,750.00

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

ARBITRATION PANEL

Edward M. Olson, Esq. - Public Arbitrator, Presiding Chair
Jacqueline R. Fox, Esq. - Public Arbitrator
Bruce F. Coleman - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Edward M. Olson, Esq.
Edward M. Olson, Esq.
Public Arbitrator, Presiding Chair

07/27/06
Signature Date

/s/ Jacqueline R. Fox, Esq.
Jacqueline R. Fox, Esq.
Public Arbitrator

07/27/06
Signature Date

/s/ Bruce F. Coleman
Bruce F. Coleman
Non-Public Arbitrator

07/27/06
Signature Date

07/27/06
Date of Service (For NASD office use only)

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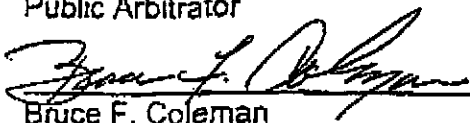
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