

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Sentra Securities Corporation, Claimant v. Michael R. Zent, Jr., Respondent

Case Number: 05-03259

Hearing Site: Phoenix, Arizona

Nature of the Dispute: Member v. Associated Person

REPRESENTATION OF PARTIES

For Claimant:

John K. Fahey
Sentra Securities Corporation
Phoenix, Arizona

For Respondent:

Kathleen A. Herdell, Esq.
Law Offices of Kathleen A. Herdell
St. Helena, California

CASE INFORMATION

Statement of Claim filed: June 24, 2005

Claimant's Uniform Submission Agreement signed: June 24, 2005

Statement of Answer filed by Respondent: August 24, 2005

Respondent's Uniform Submission Agreement signed: August 18, 2005

CASE SUMMARY

Claimant alleged that Respondent breached of terms of an independent contractor agreement and Promissory Note.

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

RELIEF REQUESTED

Claimant requested \$31,247.92 in compensatory damages, pre- and post-judgment interest and costs, including attorney's fees.

Respondent requested dismissal of the Claimant's Statement of Claim in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

The parties agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

At the hearing, the parties stipulated that Respondent owes Claimant \$1,075.33.

FINDINGS AND CONCLUSIONS

The Arbitrator found, that Claimant paid Respondent the sum of \$25,000.00 in connection with Respondent commencing work for Claimant. It is uncertain whether the \$25,000.00 paid to Respondent was in fact a forgivable loan or a signing bonus, and the parties disagree on that point. Certainly, the expectation was that Respondent's production would be in-line with his prior production and that was the economic justification for making the \$25,000.00 payment to Respondent by Claimant.

However, from an equitable standpoint, it was anticipated by the Claimant, that Respondent's production would be approximately 3 to 4 times what it actually was. Respondent made the decision to move from the San Francisco area to Tuscon during his tenure, and his production was substantially less during that period of time than Claimant and Respondent anticipated. Respondent did receive some benefit by his use of the \$25,000.00 but Respondent was an independent contractor who was to receive an approximate 90% payout. Therefore, the Claimant should not recover all of \$25,000.00 nor should Respondent be able to keep it all. In addition, Respondent testified that his production was less than what he anticipated as a result of the lack of support of Claimant. Respondent also testified that he chose to make the move and he had a difficult year personally so his production was substantially down from the prior year and everyone's expectations. Thus, there was a mutual mistake as to what the \$25,000.00 payment was to be precisely for, and, the best that can be done at this time is to make an equitable allocation.

The Arbitrator found that Respondent did not sign the promissory note. It is still a mystery as to who in fact signed the promissory note. Respondent established that the signature on the promissory note was not his signature. It was clear to the Arbitrator that the question of who signed the promissory note was in dispute. If, during the hearing, the point was conceded that the

signature was not that of the Respondent, and the concession made known to the Arbitrator, there would have been no need for expert witness testimony on that issue.

The Arbitrator found that there is no basis for making a disciplinary referral as there is insufficient proof to support the fact that anyone in particular at Claimant's firm had in fact signed, without authorization, Respondent's name to the promissory note; however it was established that Respondent did not sign the Promissory Note.

AWARD

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

- 1) Respondent is liable to and shall pay Claimant the sum of \$1,075.33 in compensatory damages for monies owed.
- 2) Respondent is liable to and shall pay Claimant interest at a rate of 6% on the sum of \$1,075.33 from November 11, 2003 until the amount is paid in full.
- 3) Respondent is liable to and shall pay Claimant the sum of \$12,500.00 in additional compensatory damages.
- 4) Claimant is liable to and shall pay Respondent the sum of \$1,775.00 as reimbursement for expert witness fees.
- 5) Except as noted above, the parties shall bear their respective costs, including attorney's fees.
- 6) 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	= \$1,000.00
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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 Sentra Securities Corporation is a party and the following fees are assessed:

Member Surcharge	= \$ 875.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$1,000.00
Total Member Fees	= \$2,625.00

Forum Fees and Assessments

The Panel 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:

(1) Pre-hearing conference session with a single arbitrator @ \$ 450.00/session	= \$ 450.00
Pre-hearing conference: October 14, 2005 1 session	
(2) Hearing sessions @ \$450.00/session	= \$ 900.00
Hearing: February 3, 2006 2 sessions	

Total Forum Fees	= \$ 1,350.00
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1. The Panel assessed \$ 675.00 of the forum fees to Claimant.
2. The Panel assessed \$ 675.00 of the forum fees to Respondent.

Fee Summary

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

Initial Filing Fee	= \$ 1,000.00
Member Fees	= \$ 2,625.00
Forum Fees	= \$ 675.00
Total Fees	= \$ 4,300.00
Less payments	= \$(4,075.00)
Balance Due NASD Dispute Resolution	= \$ 225.00

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

Forum Fees	= \$ 675.00
Balance Due NASD Dispute Resolution	= \$ 675.00

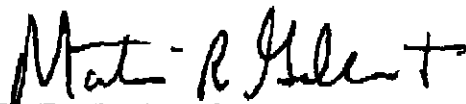
All balances are payable to NASD Dispute Resolution and are due upon the receipt of the Award pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

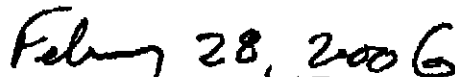
Martin R. Galbut, Esq.

Non-Public Arbitrator, Presiding Chair

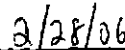
Arbitrator's Signature



Martin R. Galbut, Esq.
Chair, Non-Public Arbitrator



Signature Date



Date of Service