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**Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Name of the Claimant

Bruce Zipper

Case Number: 05-03824

Name of the Respondent

Sterling Financial Investment Group, Inc.

Hearing Site: Boca Raton, Florida

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Nature of the Dispute: Associated Person vs. Member.

**REPRESENTATION OF PARTIES**

Bruce Zipper, hereinafter referred to as "Claimant", appeared pro se.

For Sterling Financial Investment Group, Inc., hereinafter referred to as "Respondent": Andrew D. Wyman, Esq., Lavalley, Brown, Ronan & Mullins, P.A., Boca Raton, Florida until his withdrawal as counsel. Thereafter, on or about February 8, 2006, Peter Ticktin, Esq., Ticktin & Rodriguez, P.A., Boca Raton, Florida, entered an appearance for Respondent.

**CASE INFORMATION**

Statement of Claim filed on or about: July 22, 2005.

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

Statement of Answer and Motion for Judgment on the Pleadings filed by Respondent on or about: November 3, 2005.

Respondent did not file an executed Uniform Submission Agreement.

Response to Respondent's Statement of Answer and Motion for Judgment on the Pleadings filed by Claimant on or about: November 8, 2005.

Counterclaim Against Bruce Zipper filed by Respondent on or about: January 5, 2006.

Claimant did not file a response to the Counterclaim.

**CASE SUMMARY**

Claimant alleged that Respondent violated its own employer-broker agreement as well as its own supervisory procedures. Claimant further asserted that he was coerced to sign a promissory note. The causes of action relate to a debt resulting from Respondent's alleged acceptance of a third-party check when Claimant was employed by Respondent, and the Promissory Note executed by Claimant on April 7, 2005 (the "Note").

Unless specifically admitted in its Statement of Answer, Respondent denied the allegations contained in the Statement of Claim and asserted various defenses. In addition, in its Counterclaim, Respondent asserted a claim for breach of the Note.

### **RELIEF REQUESTED**

Claimant requested: 1) compensatory damages the amount of \$115,000.00, comprised of \$57,000.00 in unpaid commissions; \$5,000.00 in payments made to Respondent and \$53,000.00 representing the unpaid balance due under the Note; and, 2) interest in the amount of \$3,000.00.

Respondent requested an award of all costs incurred in the defense of this proceeding, including the assessment of attorneys' fees, expenses and forum fees against Claimant. Additionally, in its Counterclaim, Respondent requested: 1) compensatory damages in the amount of \$44,540.55; 2) interest; 3) attorneys' fees; and, 4) costs.

### **OTHER ISSUES CONSIDERED AND DECIDED**

Respondent did not file an executed Uniform Submission Agreement but is required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code") and having answered the claim, asserted a counterclaim, appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

The parties have agreed that the Award in this matter may be executed in counterpart copies.

### **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:

The Panel finds that Claimant followed the procedures outlined in Respondent's Investment Executive Policies & Procedures Manual, regarding the acceptance of third-party checks. The Panel further finds that Respondent violated its procedures contained therein. Accordingly, Respondent is liable on the claim of violation of its own supervisory procedures and shall pay to Claimant compensatory damages in the amount of \$28,000.00.

The Panel finds that the execution of the Note by Claimant was made under duress. Accordingly, the Note is deemed unenforceable and terminated by Order of the Panel.

Respondent's Counterclaim is denied in its entirety.

Any and all claims for relief not specifically addressed herein, including Respondent's request for attorneys' fees, are 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	= \$ 300.00
Counterclaim filing fee	= \$1,000.00

### **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 person at the time of the events giving rise to the dispute. In this matter, the member firm Sterling Financial Investment Group, Inc. is a party.

Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$2,750.00
Total Fees	= \$5,200.00

### **Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

April 3-4, 2006, adjournment requested by Respondent	= \$1,125.00
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The Panel assessed \$562.50 of the adjournment fee to Claimant.

The Panel assessed \$562.50 of the adjournment fee to Respondent.

### **Three-Day Cancellation Fees**

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session:

No three-day cancellation fees were incurred in this matter.

### **Injunctive Relief Fees**

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the Panel.

No injunctive relief fees were incurred in this matter.

### **Forum Fees and Assessments**

The Panel has assessed forum fees for each session conducted or each decision rendered on a discovery-related motion on the papers. 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:

One (1) Pre-hearing session with a single arbitrator @ \$450.00/session	= \$ 450.00
Pre-hearing conference: November 6, 2006 1 session	
One (1) Pre-hearing sessions with the Panel @ \$1,125.00/ session	= \$ 1,125.00
Pre-hearing conference: January 6, 2006 1 session	
Two (2) Hearing sessions @ \$1,125.00/ session	= \$ 2,250.00
Hearing Date: November 13, 2006 2 sessions	
Total Forum Fees	= \$ 3,825.00

The Panel has assessed \$1,912.50 of the forum fees to Claimant.  
The Panel has assessed \$1,912.50 of the forum fees to Respondent.

### **Administrative Costs**

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but are not limited to: additional copies of arbitrator awards; copies of audio transcripts; retrieval of documents from archives; interpreters; and, security.

There were no administrative costs incurred during these proceedings.

### **Fee Summary**

Claimant is solely liable for:

Initial Filing Fee	= \$ 300.00
Adjournment Fees	= \$ 562.50
Forum Fees	= \$ 1,912.50
Total Fees	= \$ 2,775.00
Less payments	= \$ 1,425.00
Balance Due NASD Dispute Resolution	= \$ 1,350.00

Respondent is solely liable for:

Counterclaim Filing Fee	= \$ 1,000.00
Member Fees	= \$ 5,200.00
Adjournment Fees	= \$ 562.50
Forum Fees	= \$ 1,912.50
Total Fees	= \$ 8,675.00

Less payments	= \$ 7,212.50
Balance Due NASD Dispute Resolution	= \$ 1,462.50

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

**ARBITRATION PANEL**

Peter J. Lavezzoli	-	Non-Public Arbitrator, Presiding Chairperson
Robert H. Hagan	-	Non-Public Arbitrator
Earl S. Schwarz	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

/s/	11/15/06
<hr/> Peter J. Lavezzoli Non-Public Arbitrator, Presiding Chairperson	<hr/> Signature Date
/s/	11/15/06
<hr/> Robert H. Hagan Non-Public Arbitrator	<hr/> Signature Date
/s/	11/16/06
<hr/> Earl S. Schwarz Non-Public Arbitrator	<hr/> Signature Date

November 17, 2006

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Date of Service (For NASD Dispute Resolution office use only)

NASD Dispute Resolution  
Arbitration No. 05-03824  
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Non-Public Arbitrator, Presiding Chairperson

11/15/2006  
Signature Date

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Robert H. Hagan  
Non-Public Arbitrator

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Non-Public Arbitrator, Presiding Chairperson

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Robert H. Hagan  
Non-Public Arbitrator

  
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Earl S. Schwarz  
Non-Public Arbitrator

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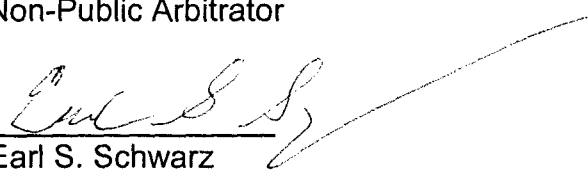
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Peter J. Lavezzoli  
Non-Public Arbitrator, Presiding Chairperson

**RECEIVED**  
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FL ARBITRATION

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Signature Date

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Robert H. Hagan  
Non-Public Arbitrator

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