
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Stern Agee & Leach, Inc.

Case Number: 05-05523

Names of the Respondents
Coker, Palmer, Phillips & Mullen
Paul T. Westervelt, Jr.
Michael D. Bodino

Hearing Site: New Orleans, Louisiana

Nature of the Dispute: Member v. Member and Associated Person.

REPRESENTATION OF PARTIES

Stern Agee & Leach, Inc., hereinafter referred to as "Claimant", Patricia C. Diak, Esq., Haskell, Slaughter, Young & Rediker, LLC, Birmingham, Alabama.

Coker, Palmer, Phillips & Mullen ("Coker"): E. Barney Robinson, III, Esq., Butler, Snow, O'Mara, Stevens & Cannada, Jackson, Mississippi.

Paul T. Westervelt ("Westervelt") and Michael D. Bodino ("Bodino"): William F. Ray, Esq., Watkins & Eager, Jackson, Mississippi.

CASE INFORMATION

Statement of Claim filed on or about: October 28, 2005.

Claimant signed the Uniform Submission Agreement on October 26, 2005.

Respondents Coker's, Westervelt's and Bodino's Defenses and Answer to Statement of Claim filed on or about: December 23, 2005.

Respondent Coker signed the Uniform Submission Agreement on December 28, 2005.

Respondent Bodino signed the Uniform Submission Agreement on December 28, 2005.

Respondent Westervelt signed the Uniform Submission Agreement on January 24, 2006.

Respondents Bodino's and Westervelt's Motion to Stay Proceedings pending a decision on Motion to Dismiss filed on or about: June 2, 2006.

Respondents Bodino's and Westervelt's Motion to Dismiss filed on or about: June 2, 2006.

Respondent Coker's Joinder in Respondents Bodino's and Westervelt's Motion to Stay Proceedings pending a decision on Motion to Dismiss filed on or about: June 2, 2006.

Respondent Coker's Joinder in Respondents Bodino's and Westervelt's Motion to Dismiss filed on or about: June 2, 2006.

Respondent Coker's Motion to Dismiss All Claims against It filed on or about: June 6, 2006.

Opposition of Claimant to Respondents' Motion to Stay Proceedings filed on or about: June 20, 2006.

Claimant's Response to Respondents' Motion to Dismiss this Proceeding filed on or about: August 8, 2006.

Respondent Coker's Rebuttal in Support of all Pending Motions to Dismiss filed on or about: August 28, 2006.

Respondents Bodino's and Westervelt's Rebuttal in Support of Motion to Dismiss Case filed on or about: August 28, 2006.

CASE SUMMARY

Claimant asserted a claim for breach of contract, gross negligence, unfair business practices and fraud. The causes of action relate to violations of non-solicitation agreements and interference with business relations.

Unless specifically admitted in its Answer, Respondents Coker, Westervelt and Bodino denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested: 1) unspecified compensatory damages; 2) costs; 3) interest; 4) punitive damages; and, 5) attorneys' fees.

Respondents Coker, Westervelt and Bodino did not delineate a relief request in their answer.

OTHER ISSUES CONSIDERED AND DECIDED

On or about July 24, 2006, the Panel granted Respondents' Motion to Stay pending a decision on the Motions to Dismiss.

On or about October 24, 2006, the Panel granted Respondents Coker's, Westervelt's and Bodino's Motions to Dismiss.

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

AWARD

After considering the pleadings and oral argument of the parties on Respondents Coker's, Westervelt's and Bodino's Motions to Dismiss heard on October 24, 2006, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Respondent Coker's Motion to Dismiss is granted, with prejudice.

Respondents Westervelt's and Bodino's Motion to Dismiss is granted, with prejudice.

Any and all claims for relief are dismissed, with prejudice, including Claimant's claims for attorneys' fees and punitive damages.

FEES

Pursuant to the NASD Code of Arbitration Procedure (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	= \$ 500.00
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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 event(s) giving rise to the dispute. Accordingly, Claimant and Respondent Coker are member firms and parties.

Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$2,200.00</u>
Total Member Fees	= \$4,450.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

There were no adjournment fees assessed during the proceedings.

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:

There were no three-day cancellation fees assessed during the proceedings.

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.

There were no injunctive relief fees assessed during these proceedings.

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A 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:

Three (3) Pre-hearing sessions with the Panel @ \$1,000.00/session= \$3,000.00

Pre-hearing Conferences: March 29, 2006	1 session
July 24, 2006	1 session
October 24, 2006	1 session

Total Forum Fees	= \$3,000.00
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The Panel has assessed \$1,500.00 of the forum fees to the Claimant.

The Panel has assessed \$1,500.00 of the forum fees to the Respondent Coker.

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 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:

Member Fees	= \$4,450.00
Filing Fee	= \$ 500.00
Forum Fees	= \$1,500.00
Total Fees	= \$6,450.00
Less payments	= \$5,950.00
Balance Due NASD Dispute Resolution	= \$ 500.00

Respondent Coker is solely liable for:

Member Fees	= \$4,450.00
Forum Fees	= \$1,500.00
Total Fees	= \$5,950.00
Less payments	= \$4,450.00
Balance Due NASD Dispute Resolution	= \$1,500.00

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

ARBITRATION PANEL

Simeon B. Reimonenq, Jr., Esq.	Public Arbitrator, Presiding Chairperson
C. Ellis Hennican, Jr., Esq.	Public Arbitrator
William R. Hanlein	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/

Simeon B. Reimonenq, Jr., Esq.
Public Arbitrator, Presiding Chairperson

October 31, 2006

Signature Date

/s/

C. Ellis Hennican, Jr., Esq.
Public Arbitrator

November 1, 2006

Signature Date

/s/

William R. Hanlein
Non-Public Arbitrator

October 31, 2006

Signature Date

November 2, 2006

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

Oct. 31. 2006 4:24PM

NASD Dispute Resolution

Arbitration No. 05-05523

Award Page 5

No. 3250 PAGE 07
P. 0/0

Simeon B. Reimoneng, Jr., Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

C. Ellis Hennican, Jr.
C. Ellis Hennican, Jr., Esq.
Public Arbitrator

November 1, 2006
Signature Date


William R. Hanlein
Non-Public Arbitrator

Signature Date

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

Oct. 31, 2006 4:22PM
Dispute Resolution
Arbitration No. 05-05523
Award Page 5

No. 3549 P. 6/6


Simeon B. Reimoneng, Jr., Esq.
Public Arbitrator, Presiding Chairperson

10/31/06
Signature Date

C. Ellis Hennican, Jr., Esq.
Public Arbitrator

Signature Date

William R. Hanlein
Non-Public Arbitrator

Signature Date

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

Oct. 31, 2006 4:20PM

Vol. 3543 P. 6

NASD Dispute Resolution
Arbitration No. 05-05523
Award Page 5

Simeon B. Reimonenq, Jr., Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

C. Ellis Hennican, Jr., Esq.
Public Arbitrator

Signature Date

William R. Hanlein
William R. Hanlein
Non-Public Arbitrator

10/31/06
Signature Date

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