

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Dr. James J. Hain (Claimant) vs. Joseph Stevens & Company (Respondent)

Case Number: 06-00242

Hearing Site: New York, New York

Nature of the Dispute: Customer vs. Member

REPRESENTATION OF PARTIES

Claimant Dr. James J. Hain hereinafter referred to as "Claimant": David E. Robbins, Esq., Kaufmann, Feiner, Yamin, Gildin, & Robbins, New York, NY.

Respondent Joseph Stevens & Company hereinafter referred to as "Respondent": Tamar Duvdevani, Esq. and Martin P. Russo, Esq., Nixon Peabody, LLP, New York, NY. Previously represented by Daniel Branower, Esq., Kurzman Eisenberg Corbin Level & Goodman, LLP, New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: January 13, 2006.
Claimant signed the Uniform Submission Agreement: January 17, 2006.

Statement of Answer filed by Respondent on or about: March 16, 2006.
Respondent did not submit a Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: breach of contract, misrepresentations, failure to execute, and unauthorized commission charges. The causes of action relate to Portalplayer, Audible, and Jamdat Mobile, Inc.

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

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$90,680.00 plus interest, costs, and fees.

Respondent requested dismissal of the Statement of Claim in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent did not file with NASD Dispute Resolution a properly executed Uniform Submission Agreement but is required to submit to arbitration pursuant to the Code and is bound by the determination of the Panel on all issues submitted.

During the hearing Claimant requested that the Panel award Claimant attorneys' fees. After due deliberation, the Panel denied Claimant's request.

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.

AWARD

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

1. Respondent is liable for and shall pay to Claimant compensatory damages in the amount of \$23,985.00 plus interest at the rate of 9% per annum beginning from July 28, 2005 until the date the Award is paid in full.
2. Any and all relief not specifically addressed herein is 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	= \$	225.00
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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 events giving rise to the dispute. Accordingly, Joseph Stevens & Company is a party.

Member Surcharge	= \$	1,100.00
Pre-Hearing Process Fee	= \$	750.00
Hearing Process Fee	= \$	1,700.00

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 Panel, 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 = \$ 450.00
Pre-hearing conference: September 15, 2006 1 session

One (1) Pre-hearing session with Panel @ \$750.00 = \$ 750.00
Pre-hearing conference: June 15, 2006 1 session

Four (4) Hearing sessions with Panel @ \$750.00 = \$ 3,000.00
Hearing Date: November 1, 2006 2 sessions
November 20, 2006 2 sessions

Total Forum Fees = \$ 4,200.00

1. The Panel has assessed \$2,100.00 of the forum fees to Claimant.
2. The Panel has assessed \$2,100.00 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 not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

1. Respondent requested copies of hearing tapes = \$ 60.00

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 225.00
Forum Fees	= \$ 2,100.00
Total Fees	= \$ 2,325.00
Less payments	= \$ 975.00
Balance Due NASD Dispute Resolution	= \$ 1,350.00

2. Respondent is solely liable for:

Member Fees	= \$ 3,550.00
Forum Fees	= \$ 2,100.00
Administrative Costs	= \$ 60.00
Total Fees	= \$ 5,710.00
Less payments	= \$ 4,300.00
Balance Due NASD Dispute Resolution	= \$ 1,410.00

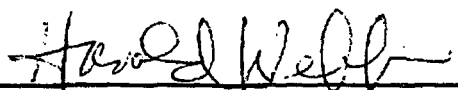
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Harold Webb, Esq.	-	Public Arbitrator, Presiding Chairperson
Evonne W.J. Tolbert, Esq.	-	Public Arbitrator
Jettie K. Thomas, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.



Harold Webb, Esq.
Public Arbitrator, Presiding Chairperson

11-27-06

Signature Date

Evonne W.J. Tolbert, Esq.
Public Arbitrator

Signature Date

Jettie K. Thomas, Esq.
Non-Public Arbitrator

Signature Date

November 27, 2006

Date of Service (For NASD Dispute Resolution use only)

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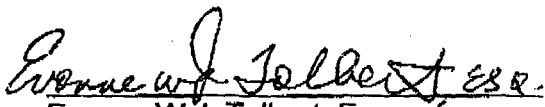
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