
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Kenneth W. Albert

Case Number: 06-00341

Names of the Respondents
Philip A. Lehman
Gregory L. Merrick

Hearing Site: Tampa, Florida

Nature of the Dispute: Associated Person vs. Associated Person.

REPRESENTATION OF PARTIES

For Kenneth W. Albert ("Alber"), hereinafter referred to as "Claimant": Anthony Paduano, Esq., Paduano & Weintraub, LLP, New York, New York.

For Philip A. Lehman ("Lehman") and Gregory L. Merrick ("Merrick"), hereinafter collectively referred to as "Respondents": Dexter B. Johnson, Esq., Mallon & Johnson, P.C., Chicago, Illinois.

CASE INFORMATION

Statement of Claim filed on or about: January 23, 2006.

Claimant signed the Uniform Submission Agreement: January 16, 2006.

Motion to Dismiss and Answer filed by Respondents on or about: March 16, 2006.

Respondents Lehman and Merrick did not submit executed Uniform Submission Agreements.

Opposition to Respondents' Motion to Dismiss filed by Claimant on or about: November 27, 2006.

CASE SUMMARY

Claimant asserted the following causes of action: 1) conversion; and 2) unjust enrichment. The cause of action relates to Claimant's previous employment relationship with Respondents.

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

RELIEF REQUESTED

Claimant requested the following: 1) compensatory damages in the amount of \$57,532.83; 2) prejudgment interest pursuant to Fla. Stat. Ann. § 57.105 (2005) at the rate of seven percent from June 25, 2004 to the date on which the Panel renders its decision; 3) punitive damages pursuant to Fla. Stat. Ann. § 768.72 and 768.73 (2005) in the amount of \$172,598.49; 4) reasonable attorneys' fees; and 5) such other relief the undersigned arbitrators (the "Panel") deemed just and proper.

Respondents requested the following: 1) that the Statement of Claim be dismissed in its entirety; and 2) that Respondents be awarded attorneys' fees and costs.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents Lehman and Merrick did not file with NASD Dispute Resolution properly executed Uniform Submission Agreements but are required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code") and, having answered the claim, are bound by the determination of the Panel on all issues submitted.

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

AWARD

After considering the pleadings and oral argument presented at the pre-hearing conference on December 8, 2006, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents' Motion to Dismiss is granted, with prejudice, provided that this dismissal does not prejudice Claimant from seeking any relief to which he believes he may be entitled against the Respondents herein in that other arbitration pending before the American Arbitration Association pursuant to the Opinion and Order in *SICOR Securities, Inc., f/k/a Tower Equities v. Kenneth W. Albert*, CA Case No. 21001 (T.C. Case No. 05-CVC-1859), entered by the Court of Appeals for Montgomery County, Ohio on March 3, 2006.
2. Any and all other claims for relief not specifically addressed herein, including Claimant's request for prejudgment interest pursuant to Fla. Stat. Ann. § 57.105 (2005), Claimant's request for punitive damages pursuant to Fla. Stat. Ann. § 768.72 and 768.73 (2005) and Claimant's and Respondents' requests for attorneys' fees are dismissed, with prejudice, provided that this dismissal does not prejudice Claimant from seeking any relief to which he believes he may be entitled against the Respondents herein in that other arbitration pending before the American Arbitration Association pursuant to the Opinion and Order in *SICOR Securities, Inc., f/k/a Tower Equities v. Kenneth W. Albert*, CA Case No. 21001 (T.C. Case No. 05-CVC-1859), entered by the Court of Appeals for Montgomery County, Ohio on March 3, 2006.

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
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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 persons at the time of the events giving rise to the dispute. Accordingly, non-party SICOR Securities, Inc. is a member firm that employed Respondents at the time of the events giving rise to the dispute.

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

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

No adjournments were requested 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.

Injunctive relief fees were not assessed in this matter.

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 assessed in this matter.

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the Panel, including a pre-hearing conference with the Panel, that lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) Pre-hearing sessions with the entire Panel @ \$1,125.00/session	= \$2,250.00
Pre-hearing conferences: November 9, 2006	1 session
December 8, 2006	1 session
Total Forum Fees	= \$2,250.00

The Panel has assessed total forum fees in the amount of \$2,250.00 to Claimant.

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 in this matter.

Fee Summary

Claimant solely liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$2,250.00
Total Fees	= \$2,550.00
Less Payments	= \$1,425.00
Balance Due NASD Dispute Resolution	= \$1,125.00

SICOR Securities, Inc. is solely liable for:

Member Fees	= \$5,200.00
Total Fees	= \$5,200.00
Less Payments	= \$2,450.00
Balance Due NASD Dispute Resolution	= \$2,750.00

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

ARBITRATION PANEL

<i>Christopher M. Shulman, Esq.</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Richard Charles Hotvedt, Esq.</i>	-	<i>Public Arbitrator</i>
<i>Kelsey B. McKay</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

 /s/
Christopher M. Shulman, Esq.
Public Arbitrator, Presiding Chairperson

December 12, 2006
Signature Date

 /s/
Richard Charles Hotvedt, Esq.
Public Arbitrator

December 13, 2006
Signature Date

/s/
Kelsey B. McKay
Non-Public Arbitrator

December 13, 2006
Signature Date

December 13, 2006
Date of Service (For NASD Dispute Resolution use only)

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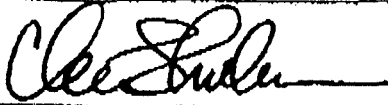
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Public Arbitrator, Presiding Chairperson

12/12/06
Signature Date

Richard Charles Hotvedt, Esq.
Public Arbitrator

Signature Date

NASD Dispute Resolution
Arbitration No. 06-00341
Award Page 5 of 5

Kelsey B. McKay
Non-Public Arbitrator

Signature Date

Date of Service (For NASD Dispute Resolution use only)

Richard Charles Hotvedt

12/15/06

RICHARD CHARLES HOTVEDT

PUBLIC ARBITRATOR

NASD Dispute Resolution
Arbitration No. 06-00341
Award Page 5 of 5

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