

AWARD

**NASD REGULATION, INC.,
OFFICE OF DISPUTE RESOLUTION**

In the matter of the Arbitration Between

Name of Claimant

Michael Z. Landy

v.

NASD Regulation, Inc.
Arbitration No. 96-03011

Name of Respondents

Cantor Fitzgerald & Co. and Howard Lutnick

REPRESENTATION

For Claimant:

Michael R. Mitchell, Esq.
Los Angeles, California

For Respondents:

Robert F. Mace, Esq.
Cantor Fitzgerald & Co.
New York, New York

CASE INFORMATION

Statement of Claim filed: August 15, 1996

Claimant's Submission Agreement signed: July 10, 1996

Joint Statement of Answer filed by Respondents: October 4, 1996

Counter-Claim filed by Respondents: October 4, 1996

Answer to Respondent's
Counter-Claim filed by Claimant: October 30, 1996

Respondent Cantor Fitzgerald & Co.
Submission Agreement signed:

October 8, 1996

Respondent Howard Lutnick
Submission Agreement signed:

October 8, 1996

HEARING INFORMATION

Pre-Hearing Conference Date / Session: January 7, 1997 (1 Session)

Hearing Dates / Sessions: April 8, 1997 (1 Session)

Hearing Location: Los Angeles, California

CASE SUMMARY

Claimant alleged that his employment contract with Respondent was breached when Respondent failed to pay Claimant's salary on time. Claimant also alleged that Respondent intentionally inflicted emotional distress by withholding payment of the Claimant's wages. inflicted emotional distress

Respondents denied each and every allegation of wrongdoing set forth in the Claimant's Statement of Claim. denied each and every allegation of wrongdoing set forth in the Claimant's Statement of Claim

Respondents filed a Counter-Claim against Claimant. Respondents alleged that claimant breached his fiduciary duty owed to the Respondent. breached his fiduciary duty owed to the Respondent

Claimant denied each and every allegation of wrongdoing set forth in the Respondents' Counter-Claim.

RELIEF REQUESTED

Claimant requested \$60,000 in compensatory damages. Claimant further requested punitive damages, interest, costs, and fees.

Respondents requested that the Claimant's claims be dismissed with prejudice

Respondents' Counter-Claim sought compensatory damages, punitive damages, costs and fees.

Claimant requested that the Respondents' Counter-Claim be dismissed with prejudice.

OTHER ISSUES CONSIDERED AND DECIDED

The parties have agreed that the Award in this matter may be executed in either counterpart copies or that a handwritten, signed award may be entered. In either case, the parties have agreed to receive conformed copies of the Award while the original remains on file with the NASD Regulation, Inc. Office of Dispute Resolution.

AWARD

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

1. Respondent Cantor Fitzgerald & Co. is liable to and shall pay Claimant the sum of \$36,000 in compensatory damages.
2. Respondent Cantor Fitzgerald & Co. is liable to and shall pay Claimant the sum of \$3,300 in interest damages.
3. Respondent Cantor Fitzgerald & Co. is liable to and shall pay claimant the sum of \$10,000.00 in attorney's fees pursuant to California Labor Code Section 218.5.
4. Claimant's claim for punitive damages was denied in its entirety.
5. All of the claims against Respondent Howard Lutnick are denied in their entirety.
6. Except as noted above, the parties shall each bear their respective costs.

FORUM FEES

Pursuant to Rule 10332(c) of the Code of Arbitration Procedure, the following forum fees are assessed against Respondent Cantor Fitzgerald & Co.:

1 Full Panel Pre-Hearing Conference @ \$500.00/Session	= \$500.00
1 Hearing Session @ \$500.00/Session	= \$500.00
Total Fees Assessed Against Respondent Cantor Fitzgerald & Co.:	= \$1,000.00


Fees are payable to NASD Regulation, Inc.

NASD Regulation, Inc. will refund Claimant's hearing session deposit.

ARBITRATORS

<u>Name</u>	<u>Public / Industry</u>
George M. Wiener, Esq.	Public
Lionel S. Heller	Public
Donald L. Lisle	Industry

Concurring Arbitrators' Signatures



George M Wiener, Esq.

Lionel S. Heller

Donald L. Lisle

Date of Decision: _____

Date of Service: _____

ARBITRATORS

<u>Name</u>	<u>Public / Industry</u>
George M. Wiener, Esq.	Public
Lionel S. Heller	Public
Donald L. Lisle	Industry

Concurring Arbitrators' Signatures

George M Wiener, Esq.

Lionel S. Heller

Donald L. Lisle

Date of Decision: _____

Date of Service: 4-17-97