

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Emmett J. Harty, (Claimant) vs. Cantor Fitzgerald & Co., Inc., (Respondent)

Case Number: 99-00824

Hearing Site: New York, New York

REPRESENTATION OF PARTIES

Claimant, Emmett J. Harty, hereinafter referred to as "Claimant": Edward V. O'Hanlon, Esq., Robinson & Cole, LLP, Stamford, CT. Mr. O'Hanlon was with the law firm of O'Rourke O'Hanlon & Zimmermann, LLP, New Canaan, CT, when this claim was originally filed.

Respondent, Cantor Fitzgerald & Co., Inc., hereinafter referred to as "Respondent": Allen Levine, Esq., Kronish Lieb Weiner & Hellman LLP, New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: February 23, 1999.

Amended Statement of Claim filed on or about: June 5, 2000.

Second Amended Statement of Claim filed on or about: August 18, 2000.

Claimant signed the Uniform Submission Agreement: March 22, 1999.

Statement of Answer filed by Respondent on or about: May 25, 1999.

Statement of Answer to Second Amended Statement of Claim filed by Respondent on or about: August 29, 2000.

Respondent signed the Uniform Submission Agreement: April 26, 1999.

CASE SUMMARY

Claimant asserted the following causes of action: breach of employment agreement; civil theft of CFLP grant units; and failure to pay earned bonus compensation.

Unless specifically admitted in its Answers, Respondent denied the allegations made in the Statement of Claim and Amended Statements of Claim and asserted the following defenses: Claimant fails to state a claim for which relief may be granted and Claimant is not entitled to any damages due to his own breach of the employment agreement.

RELIEF REQUESTED

Claimant requested:

- a. Declaratory relief in the form of a finding that Respondent has breached the Employment Agreement;
- b. Compensatory damages from Respondent in the form of his 1998 annual bonus approximated at \$400,000.00, and his 1999 annual bonus approximated at \$500,000.00;
- c. The value of the CFLP grant units, together with earnings thereon, that were due to be paid to Claimant on October 1, 1998;
- d. Interest on all amounts due from Respondent at the legal rate under the law of the State of New York, from (i) October 1, 1998, the dates of default for the grant units, (ii) February 15, 1999, the date the 1998 bonus was due and payable, and (iii) February 15, 2000, the date the 1999 bonus was due and payable;
- e. Additional damages from Respondent in the form of doubling the grant units from 1998, and doubling the 1998 and 1999 annual bonuses, together with attorneys' fees and costs, including the costs of this arbitration, for violation of the Connecticut Wage Statute;
- f. An Order that Respondent return to Claimant all personal files and property left in his office;
- g. An Order that Respondent provide Claimant with a copy of the research that Claimant provided to Respondent at the outset of his employment, which is termed "Joint Property" under the Employment Agreement;
- h. Reimbursement by Respondent of Claimant's legal fees and expenses in this arbitration; and
- i. Such other relief, at law or in equity, that the Panel feels is appropriate to the facts and circumstances of this case.

Respondent requested that Claimant's claims be denied.

OTHER ISSUES CONSIDERED AND DECIDED

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 testimony and evidence 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 the sum of \$1,157,393.22 as compensatory damages, plus pre-award interest in the amount of \$364,606.69, and post-award interest at the rate of 9% accruing from February 11, 2003 to date of payment.
2. Respondent is liable for and shall pay to Claimant the sum of \$1,157,393.22 as additional damages pursuant to the Connecticut Wage Statute, Conn.Gen.Stat. section 31-72.
3. Respondent is liable for and shall pay to Claimant the sum of \$382,556.00 as attorneys' fees. The Panel awarded attorneys' fees pursuant to the Connecticut Wage Statute, Conn.Gen.Stat. section 31-72.
4. Respondent is liable for and shall pay to Claimant the sum of \$39,107.88 as costs. The Panel awarded costs pursuant to the Connecticut Wage Statute, Conn.Gen.Stat. section 31-72.
5. All other requests for relief are hereby 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	= \$ 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 events giving rise to the dispute. In this matter, Cantor Fitzgerald & Co., Inc. is a party.

Member surcharge	= \$ 2,000.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$ 4,500.00

Forum Fees and Assessments

The Panel assesses forum fees for each hearing session conducted. A hearing 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 x \$450.00 = \$ 450.00

Pre-hearing conference: November 29, 2000 1 session

Three (3) Pre-hearing sessions with Panel x \$1,000.00 = \$ 3,000.00

Pre-hearing conferences: June 12, 2000 1 session

July 12, 2000 1 session

March 30, 2001 1 session

Thirty-three (33) Hearing sessions x \$1,000.00 = \$33,000.00

Hearing Dates: December 4, 2000 2 sessions

December 5, 2000 2 sessions

December 6, 2000 2 sessions

February 6, 2001 1 session

February 7, 2001 2 sessions

May 14, 2001 2 sessions

May 15, 2001 2 sessions

September 10, 2001 2 sessions

February 13, 2002 2 sessions

February 14, 2002 2 sessions

May 2, 2002 2 sessions

June 18, 2002 2 sessions

June 19, 2002 2 sessions

July 24, 2002 2 sessions

July 25, 2002 2 sessions

September 18, 2002 2 sessions

February 10, 2003 2 sessions

Total Forum Fees = \$36,450.00

1. The Panel has assessed \$18,225.00 of the forum fees against Claimant.
2. The Panel has assessed \$18,225.00 of the forum fees against Respondent.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 500.00
<u>Forum Fees</u>	<u>= \$18,225.00</u>
Total Fees	= \$18,725.00
<u>Less payments</u>	<u>= \$ 2,000.00</u>
Balance Due NASD Dispute Resolution	= \$16,725.00

2. Respondent is solely liable for:

Member Fees	= \$ 7,100.00
<u>Forum Fees</u>	<u>= \$18,225.00</u>
Total Fees	= \$25,325.00
<u>Less payments</u>	<u>= \$ 2,100.00</u>
Balance Due NASD Dispute Resolution	= \$23,225.00

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

ARBITRATION PANEL

Patrick J. Howley, Esq.	-	Non-Public Arbitrator, Presiding Chair
John A. Borgese, Esq.	-	Non-Public Arbitrator
Patrick J. O'Neil	-	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.



Patrick J. Howley, Esq.
Non-Public Arbitrator, Presiding Chair

3-10-03

Signature Date

John A. Borgese, Esq.
Non-Public Arbitrator

Signature Date

Patrick J. O'Neil
Non-Public Arbitrator

Signature Date

March 18, 2003

Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

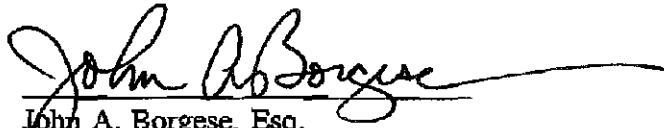
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Patrick J. Howley, Esq.
Non-Public Arbitrator, Presiding Chair

Signature Date


John A. Borgese, Esq.
Non-Public Arbitrator

3/10/03
Signature Date

Patrick J. O'Neil
Non-Public Arbitrator

Signature Date

March 18, 2003
Date of Service (For NASD Dispute Resolution use only)

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Patrick J. Howley, Esq.
Non-Public Arbitrator, Presiding Chair

Signature Date

John A. Borgese, Esq.
Non-Public Arbitrator

Signature Date


Patrick J. O'Neil
Non-Public Arbitrator

03/07/03
Signature Date

March 18, 2003
Date of Service (For NASD Dispute Resolution use only)