

**Award
NASD Regulation, Inc.**

In the Matter of the Arbitration Between:

Michael P. Gallo, Claimant vs. North Coast Securities Corporation and James W. Fuller, Respondents.

Case Number: 99-01376

Hearing Site: San Francisco, California

REPRESENTATION OF PARTIES

Claimant, Michael P. Gallo, hereinafter referred to as "Claimant": Frank P. Sarro, Esq., San Francisco, California

Respondents, North Coast Securities Corporation ("NCSC") and James W. Fuller ("Fuller"), hereinafter referred to as "Respondents": Stephen L. Porter, Esq., Whitehead, Porter & Gordon LLP, San Francisco, California

CASE INFORMATION

Statement of Claim filed on or about: March 18, 1999

Claimant, Michael P. Gallo, signed the Uniform Submission Agreement: February 22, 1999

Statement of Answer filed by Respondents, NCSC and Fuller, on or about: May 24, 1999

Respondents, NCSC and Fuller, signed the Uniform Submission Agreement: May 24, 1999

CASE SUMMARY

Claimant, Michael P. Gallo, alleged that upon the termination of Claimant's employment with NCSC in the summer of 1998, Mr. Fuller failed and refused to pay all accrued compensation due Mr. Gallo and further alleged that Mr. Fuller inappropriately deducted certain expenses and penalties from Mr. Gallo's final pay. Claimant further alleged that Respondents violated the California Labor Code and that Respondents' violations subject them to a penalty of an extra 30 days' wages to Mr. Gallo (Labor Code Section 203) and attorney's fees (Labor Code Section 218.5).

Respondents denied all allegations of wrongdoing in Claimant's Claim and denied any liability to Claimant. Respondents asserted the following affirmative defenses: 1) Claimant's Complaint does not state facts sufficient to constitute a viable cause of action upon which relief can be granted against Respondents NCSC and Fuller; 2) No relief may be obtained by Claimant under the Complaint by reason of the doctrine of waiver and or estoppel; 3) Claimant's damages, if any, were proximately caused and/or contributed to by the negligent acts of Claimant; 4) Respondent NCSC is not a real party in interest in this action in that it did not employ Claimant, and was not the successor in interest of Claimant's true employer; and 5) NCSC cannot be held vicariously

liable, under any viable legal theory, for the obligations, if any, of Claimant's employer to Claimant.

RELIEF REQUESTED

Claimant requested at least \$30,351.06 plus 30 days' wages as a penalty with interest thereon accruing since at least August 4, 1998, as well as all of Claimant's arbitration costs. Claimant also requested attorney's fees pursuant to California Labor Code Section 218.5.

Respondents requested dismissal of Claimant's claims.

OTHER ISSUES CONSIDERED AND DECIDED

The Panel determined that Claimant shall be assessed the \$600.00 postponement fee in connection with Claimant's request to postpone the hearing sessions scheduled on January 13-14, 2000.

The Panel determined that Respondent NCSC shall be assessed the \$600.00 postponement fee in connection with NCSC's request to postpone the hearing sessions scheduled on April 11-13, 2000.

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. All claims by Claimant against Respondent NCSC are dismissed.
2. Respondent Fuller is solely liable for and shall pay to Claimant the sum of \$12,000.00 in compensatory damages.
3. Respondent Fuller is solely liable for and shall pay to Claimant the sum of \$5,000.00 in attorney's fees pursuant to California Labor Code Section 218.5.
4. The parties shall each bear all other respective costs incurred in this matter.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Regulation, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$175.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm is a party.

Member surcharge = \$ 800.00

Pre-hearing process fee = \$ 600.00

Hearing process fee = \$1,000.00

Adjournment Fees

Adjournments requested during these proceedings:

January 13-14, 2000, adjournment by Claimant = \$600.00

April 11-13, 2000, adjournment by Respondent NCSC = \$600.00

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 arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with Panel x \$600.00 = \$ 600.00

Pre-hearing conference: November 1, 1999 1 session

One (1) Pre-hearing session with a single arbitrator x \$450.00 = \$ 450.00

Pre-hearing conference: February 18, 2000 1 session

Two (2) Hearing sessions x \$600.00 = \$1,200.00

Hearing date: June 8, 2000 2 sessions

Total Forum Fees = \$2,250.00

1. The Panel has assessed \$600.00 of the forum fees to Claimant.
2. The Panel has assessed \$1,650.00 of the forum fees jointly and severally to Respondents, NCSC and Fuller.

Fee Summary

1. Claimant, be and hereby is solely liable for:

Initial Filing Fee	= \$ 175.00
Member Fees	= \$ 0.00
Adjournment Fee	= \$ 600.00
Forum Fees	= \$ 600.00
<u>Administrative Costs</u>	<u>= \$ 0.00</u>
Total Fees	= \$1,375.00
<u>Less payments</u>	<u>= \$1,700.00</u>
Balance (Refund)	= \$ 325.00

2. Respondent, NCSC, be and hereby is solely liable for:

Initial Filing Fee	= \$ 0.00
Adjournment Fee	= \$ 600.00
Member Fees	= \$2,400.00
<u>Administrative Costs</u>	<u>= \$ 0.00</u>
Total Fees	= \$3,000.00
<u>Less payments</u>	<u>= \$2,400.00</u>
Balance Due NASD Regulation, Inc.	= \$ 600.00

3. Respondents, NCSC and Fuller, be and hereby are jointly and severally liable for:

Forum Fees	= \$1,650.00
<u>Administrative Costs</u>	<u>= \$ 0.00</u>
Total Fees	= \$1,650.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Regulation, Inc.	= \$1,650.00

All balances are due to NASD Regulation, Inc. and are payable within 30 days of the service date of this Award.

Concurring Arbitrators' Signatures

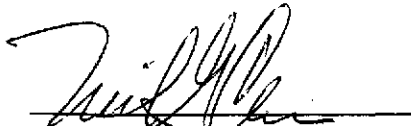


Gordon F. Linke
Industry Arbitrator, Presiding Chair

June 19 2000
Signature Date

Date Served:

JUL 03 2000


Neil G. Clem
Industry Arbitrator


Signature Date

John Meade Finigan, Sr.
Industry Arbitrator
Date Served:

JUL 03 2000

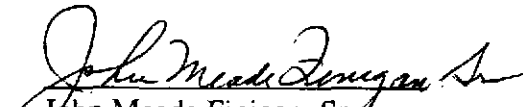
Signature Date

Date of Service (For NASD office use only)

NASD Regulation, Inc. Office of Dispute Resolution
Arbitration No. 99-01376
Award Page 5 of 5

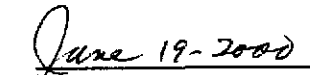
Neil G. Clem
Industry Arbitrator

Signature Date


John Meade Finigan, Sr.
Industry Arbitrator

Date Served:

JUL 03 2000


Signature Date

Date of Service (For NASD office use only)