

**Award**  
**NASD Dispute Resolution, Inc.**

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In the Matter of the Arbitration Between

Name of Claimant

Joseph A. Spoerl

Case No. 99-03083

Name of Respondent

High Street Financial, Inc.

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**REPRESENTATION OF PARTIES**

For Joseph A. Spoerl, hereinafter referred to as "Claimant": Jonathan L. Alpert, Esq., Alpert, Barker, Rodems, Ferrentino & Cook, P.A., Tampa, Florida. On or about December 12, 2000, William J. Cook, Esq., Barker, Rodems & Cook, P.A., substituted as counsel for Claimant.

For High Street Financial, Inc., hereinafter referred to as "Respondent": Gregory E. Mierzwinski, Esq., Morgan, Padgett & Mierzwinski, P.A. On or about October 18, 2000, Stanley T. Padgett, Esq., Morgan, Padgett & Associates, P.A., Tampa, Florida, substituted as counsel.

**CASE INFORMATION**

Statement of Claim filed on or about: July 6, 1999.

Claimant signed the Uniform Submission Agreement on: June 18, 1999.

Conditional Answer to Statement of Claim filed by Respondent on or about: March 15, 2000.

Respondent did not file an executed Uniform Submission Agreement.

**CASE SUMMARY**

Claimant asserted the following causes of action: 1) breach of contract; 2) contractual indemnity; and 3) unpaid wages. The causes of action relate to: 1) unreimbursed expenses, commissions, salary and trading revenue owed to Claimant; and 2) loss of business resulting from Respondent's mishandling of client accounts.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses: 1) clients referred by Claimant to Respondent instructed Respondent to have no further contact with Claimant in regard to said clients' accounts; and 2) clients referred by Claimant to Respondent instructed Respondent not to pay Claimant for any services allegedly rendered to said clients or to said clients' accounts.

### **RELIEF REQUESTED**

Claimant requested: 1) compensatory damages in excess of \$200,000.00; 2) interest; 3) costs; and 4) attorneys' fees.

Respondent requested dismissal of the Statement of Claim.

### **OTHER ISSUES CONSIDERED AND DECIDED**

Respondent did not file with NASD Dispute Resolution, Inc. a properly executed submission to arbitration, and having answered the claim, appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

On or about March 31, 2000, the Panel: 1) denied Respondent's motion to dismiss; and 2) deemed Respondent's Conditional Answer to Statement of Claim as Respondent's Answer to the Statement of Claim.

At the evidentiary hearing, the Panel granted Claimant's motion to compel discovery of the names of certain employees of Respondent.

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, and the post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent is liable and shall pay to Claimant compensatory damages in the amount of \$13,992.18, plus pre-judgment interest in the amount of \$2,130.99. Post-judgment interest shall accrue in accordance with Rule 10330(h) of the Code. The Panel finds liability on the claims of breach of contract and contractual indemnity. The Panel finds no liability on the claim of unpaid wages.
2. Respondent is liable and shall pay to Claimant his reasonable attorneys' fees and costs in amounts to be determined by a court of competent jurisdiction. Attorneys' fees and costs are awarded pursuant to the Associated Person Agreement dated October 1, 1997 between Claimant and Respondent and the Regional Representative Agreement dated October 1, 1997 between Claimant and Respondent.
3. Respondent is liable and shall pay to Claimant the sum of \$300.00 representing reimbursement of the claim filing fee previously paid by Claimant to NASD Dispute Resolution, Inc.

4. All other requests for relief not specifically addressed herein are denied.

### **FEES**

Pursuant to the NASD Code of Arbitration Procedure (the "Code"), the following fees are assessed:

#### **Filing Fees**

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

Initial claim filing fee = \$300.00

#### **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, Respondent is not a member firm and there are no member fees.

#### **Adjournment Fees**

Adjournments requested during these proceedings:

October 18, 19 and 20, 2000, adjournment request by Respondent = \$1,125.00

#### **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 \$1,125.00 = \$1,125.00  
Pre-hearing conference: March 20, 2000 1 session

Four (4) Hearing sessions x \$1,125.00 = \$4,500.00  
Hearing Dates: April 30, 2001 2 sessions  
May 1, 2001 2 sessions

Total Forum Fees = \$5,625.00

The Panel has assessed the total forum fees in the amount of \$5,625.00 to Respondent.

#### **Administrative Costs**

Administrative costs are expenses incurred due to a request by a party for special services including, but not limited to, additional copies of arbitrator awards beyond those provided without charge, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

There were no administrative costs incurred during these proceedings.

**FEE SUMMARY**

Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$300.00	
Total Fees	= \$300.00	
<u>Less payments</u>	<u>= \$300.00</u>	
Balance Due NASD Dispute Resolution, Inc.		= \$0.00

Respondent be and hereby is solely liable for:

Adjournment Fee	= \$1,125.00	
Forum Fees	= \$5,625.00	
Total Fees	= \$6,750.00	
<u>Less payments</u>	<u>= \$1,125.00</u>	
Balance Due NASD Dispute Resolution, Inc.		= \$5,625.00

All balances are payable to NASD Dispute Resolution, Inc. and are due immediately upon receipt of the Award by the parties.

**ARBITRATION PANEL**

Heather D. Fitzenhagen, Esq.	-	Non-Public Arbitrator, Presiding Chair
Darryll R. Bauchert, Sr., MBA, CFP	-	Non-Public Arbitrator
James C. Devine	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

\_\_\_\_\_  
/s/  
Heather D. Fitzenhagen, Esq.  
Non-Public Arbitrator, Presiding Chair

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
/s/  
Darryll R. Bauchert, Sr., MBA, CFP  
Non-Public Arbitrator

\_\_\_\_\_  
Signature Date

/s/  
James C. Devine  
Non-Public Arbitrator

\_\_\_\_\_  
Signature Date

June 19, 2001  
Date of Service (For NASD-DR office use only)

There were no administrative costs incurred during these proceedings.

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James C. Devine	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

  
 Heather D. Fitzenhagen, Esq.  
 Non-Public Arbitrator, Presiding Chair

06/18/01  
 Signature Date

Darryll R. Bauchert, Sr., MBA, CFP  
 Non-Public Arbitrator

Signature Date

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Heather D. Fitzonhagen, Esq.  
Non-Public Arbitrator, Presiding Chair



Darryll R. Bauchert, Sr., MBA, CFP  
Non-Public Arbitrator

Signature Date

6/14/01  
Signature Date

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James C. Devine  
Non-Public Arbitrator

**Signature Date**

Date of Service (For NASD-DR office use only)