

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

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In the Matter of the Arbitration Between

Name of Claimants/Counter Respondents

Ferris, Baker Watts, Inc.  
James G. Stahl

Case No. 99-04155

Name of Respondent/ Counter Claimant

BGS&G Investment Services, Inc.

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**REPRESENTATION OF PARTIES**

Claimants James G. Stahl ("Stahl") and Ferris, Baker Watts, Inc. ("FBW"), hereinafter collectively referred to as "Claimants", were represented by Craig F. Ballew, Esq., of the law firm of Ferguson, Schetelich & Heffernan, P.A., Baltimore, Maryland.

Respondent BGS&G Investment Services, Inc. ("BGS&G") was represented by H. Gregory Skidmore, Esq., of the law firm of Skidmore & Alderson, Cumberland, Maryland.

**CASE INFORMATION**

Statement of Claim filed on: September 9, 1999

Claimants' response to the Statement of Answer and Counterclaim filed: November 18, 1999

Stahl's Uniform Submission Agreement signed on: September 8, 1999

FBW's Uniform Submission Agreement executed by Theodore W. Urban, Executive Vice President and General Counsel signed on: September 8, 1999

Statement of Answer filed by BGS&G on: November 5, 1999

BGS&G's Uniform Submission Agreement executed by Robert H. Cramer, President of BGS&G Investment Services, Inc. on: November 2, 1999

### CASE SUMMARY

This dispute arises out of the employment relationship between Stahl and BGS&G in Cumberland, Maryland. Stahl held various positions with BGS&G between January, 1989 and April, 1999. Stahl alleged, among other things, that he was an at-will employee with no restrictive employment covenants at the time his employment relationship with BGS&G ended and that he was terminated due to his refusal to sign an employment contract once BGS&G merged with Century Business Services, Inc. Stahl also alleged that (1) that Robert Garner (hereinafter "Garner") and John Ketzner (hereinafter "Ketzner"), the president and director of BGS&G, respectively, threatened Stahl with legal action should he seek other employment in the Cumberland area; and (2) that employees of BGS&G sent correspondence and made comments to clients which made false representations about the circumstances under which Stahl ended his employment with BGS&G, Stahl's legal status, and the nature of services available to clients through BGS&G after the merger with Century Business Services, Inc.

On May 4, 1999, Stahl accepted a position with FBW in its Cumberland, Maryland office.

As a result of these allegations, Claimants filed a four-count Statement of Claim with NASD Dispute Resolution, Inc. Count I alleged that BGS&G violated NASD Rule 2110 by filing a complaint in the Circuit Court for Allegheny County, Maryland when they were required to arbitrate business-related disputes. Count II alleged that BGS&G tortiously interfered with Stahl's ability to begin a prospective new business venture with Fidelity Investments, his ability to continue business relationship with clients, and with his ability to obtain new clients. Count III alleged that BGS&G's aforementioned correspondence and statements to Stahl's clients were defamatory statements published by BGS&G with the intent to injure Stahl. Count IV alleged that BGS&G tortiously interfered with FBW's competitive advantage through its aforementioned acts which reduced Stahl's ability to maintain current clients and obtain new ones.

In response to Claimants' allegations, BGS&G filed an answer and counterclaim. BGS&G denied all allegations of wrongdoing set forth in the Statement of Claim. BGS&G maintained, among other things, that Stahl, through his ownership of BGS&G stock, was subject to restrictive covenants contained in the merger agreement between BGS&G and Century Business Services, Inc., and that he acknowledged his awareness of these covenants by voting his shares of stock in approval of the merger. BGS&G further maintained that any attempt by Stahl to maintain a financial services and investment business and/or to contact BGS&G clients violates the covenants in that merger agreement. Finally, BGS&G alleged that Stahl had negotiated employment with FBW prior to the end of his employment with BGS&G in April, 1999.

BGS&G's counter-claim consists of four counts. Count I alleged that Stahl misappropriated trade secrets and confidential information in order to divert business from BGS&G to FBW. Count II alleged that Claimants tortiously interfered with BGS&G's relationship with its clients when FBW recruited Stahl to leave BGS&G and when Claimants used trade secrets and confidential information to recruit BGS&G clients, resulting in lost profits for BGS&G and harm to their business reputation. Count III alleged that Claimants made false and defamatory

statements intended to injure the reputation of BGS&G. Count IV alleged that Claimants misappropriated trade secrets.

Stahl and FBW denied all allegations of wrongdoing asserted by BGS&G in its counterclaim.

### **RELIEF REQUESTED**

#### **By the Claimants:**

- Count I - 1. An injunction requiring BGS&G to arbitrate and to dismiss the claims filed in the Circuit Court for Allegheny County, Maryland.  
2. Attorney's fees and costs associated with responding to the Circuit Court complaint and in filing the request for injunctive relief.

- Count II - 1. \$200,000.00 in compensatory damages.  
2. \$600,000.00 in punitive damages.  
3. Interest.  
4. Costs.

- Count III - 1. \$1,000,000.00 in compensatory damages.  
2. \$4,000,000.00 in punitive damages.  
3. Interest.  
4. Costs.

- Count IV - 1. \$500,000.00 in compensatory damages.  
2. \$1,500,000 in punitive damages.  
3. Interest.  
4. Costs.

In Answer to Cross-Claim - The Cross-Claim be dismissed in its entirety.

#### **By the Respondent:**

In Answer to Statement of Claim - The Statement of Claim be dismissed in its entirety.

- Cross-Claim Count I - 1. \$250,000.00 "or more" in compensatory damages.  
2. Interest.  
3. Costs.  
4. Any other relief as the interests of justice may require.

- Cross-Claim Count II - 1. \$250,000.00 "or more" in compensatory damages.  
2. Interest.  
3. Costs.  
4. Any other relief as the interests of justice may require.

Cross-Claim Count III -

1. \$250,000.00 "or more" in compensatory damages.
2. Interest.
3. Costs.
4. Any other relief as the interests of justice may require.

Cross-Claim Count IV -

1. \$250,000.00 "or more" in compensatory damages.
2. Interest.
3. Costs.
4. Any other relief as the interests of justice may require.

**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. As to Count I of the Statement of Claim, the panel finds in favor of the Claimants jointly in the total amount of \$10,500.00; no prejudgment interest is awarded on this amount.
2. As to Count III of the Statement of Claim, the panel finds in favor of Claimant Stahl in the amount of \$5,000.00; no prejudgment interest is awarded on this amount.
3. Counts II and IV of the Statement of Claim are dismissed in their entirety.
4. The Counterclaim is dismissed in its entirety.
5. The parties shall bear their respective costs, including attorneys' fees except as Fees are specifically addressed below.
6. That any claim for relief not specifically addressed herein is denied in its entirety.

**FEES**

Pursuant to 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 for a member claimant	= \$ 2,500
Counter claim/Cross claim/Third Party Claim filing fee	= \$ 1,000

### **Member Fees**

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

Member surcharge for FBW	= \$ 3,000
Member surcharge for BGS&G	= \$ 3,000
Pre-hearing process fee for FBW	= \$ 600
Pre Hearing process fee for BGS&G	= \$ 600
Hearing process fee for FBW	= \$ 5,000
Hearing process fee for BGS&G	= \$ 5,000

### **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 arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

2 Pre-hearing sessions with a single arbitrator x \$ 450	= \$ 900
Pre-hearing conferences:	
July 6, 2000	1 session
August 2, 2000	1 session
1 Pre-hearing session with Panel x \$ 1,200	= \$ 1,200
Pre-hearing conference(s):	Date                      1 session
13 Hearing sessions x \$ 1,200	= \$15,600
Hearing Dates:	
September 11, 2000	2 sessions
September 12, 2000	2 sessions
September 13, 2000	2 sessions
September 14, 2000	2 sessions
September 27, 2000	2 sessions
September 28, 2000	2 sessions
September 29, 2000	1 session
Total Forum Fees	= \$17,700

The Pane has assessed \$17,700 in forum fees to BGS&G.

### **Injunctive Relief Fee**

The claim was originally filed pursuant to Rule 10335 Injunctions of the Code of Arbitration Procedure and as such a non refundable surcharge of \$2,500 was assessed jointly and severally to

FBW and Stahl.

FBW and Stahl, expedited service of the claim = \$ 2,500

Fee Summary

FBW and Stahl are jointly and severally assessed:

Initial Filing Fee = \$ 2,500

Injunctive Relief Fee = \$ 2,500

Total Fees assessed jointly and severally = \$ 5,000

FBW is solely assessed

Member Fees = \$ 8,600

Total Fees (including joint and several fees) = \$ 5,000\*

\$13,600

Less payments = \$ 7,229.17

Balance Due NASD Dispute Resolution, Inc. = \$ 6,370.83

\* Stahl is only jointly and severally liable for \$500 of the balance due, the remaining fees are member fees assessed against FBW

BGS&G is assessed the following fees:

Initial Filing Fee = \$ 1,000

Member Fees = \$ 8,600

Forum Fees = \$17,700

Total Fees = \$29,300

Less payments = \$18,600

Balance Due NASD Dispute Resolution, Inc. = \$ 10,700

All balances are due and payable to NASD Dispute Resolution, Inc.


Oct-17-00 11:07am From-NASD

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Arbitration No. 99-04155

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**Concurring Arbitrators' Signatures**

  
Jerry M. Harnovit, Esq.  
Public Arbitrator, Presiding Chairperson

10/17/00  
Date signed

**Richard E. Lauziere, CPA**  
**Public Arbitrator, Panelist**

**Date signed**

**Wayne J. Thamer**  
Non Public Arbitrator, Panelist

**Date signed**

October 30, 2000  
Date Award Served by NASD Dispute Resolution, Inc.

**Concurring Arbitrators' Signatures**

\_\_\_\_\_  
Jerry M. Hamovit, Esq.  
Public Arbitrator, Presiding Chairperson

\_\_\_\_\_  
Date signed

Richard E. Lauziere  
Richard E. Lauziere, CPA  
Public Arbitrator, Panelist

10-18-00  
Date signed

\_\_\_\_\_  
Wayne J. Thaemert  
Non Public Arbitrator, Panelist

\_\_\_\_\_  
Date signed

October 30, 2000  
Date Award Served by NASD Dispute Resolution, Inc.



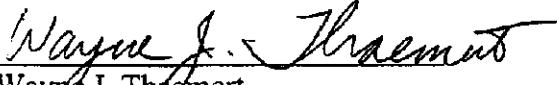
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Public Arbitrator, Presiding Chairperson

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Date signed

\_\_\_\_\_  
Richard E. Lauziere, CPA  
Public Arbitrator, Panelist

\_\_\_\_\_  
Date signed

  
\_\_\_\_\_  
Wayne J. Thiemert  
Non Public Arbitrator, Panelist

10-28-00  
\_\_\_\_\_  
Date signed

October 30, 2000  
Date Award Served by NASD Dispute Resolution, Inc.