

STIPULATED AWARD
NASD Regulation, Inc.

In the Matter of the Arbitration Between

Name of Claimant

Christopher Pettengill

and

99-05157
Minneapolis, Minnesota

Name of Respondent

Berthel Fisher & Company Financial Services, Inc.

REPRESENTATION OF PARTIES

Christopher Pettengill ("**Claimant**") was represented by Pace, Esq., Wiese Law Firm, P.A., Minneapolis, Minnesota.

Berthel Fisher & Company Financial Services, Inc. ("**Respondent**") was represented by Vincent D. Louwagie, Esq., Fruth & Anthony, Minneapolis, Minnesota.

CASE INFORMATION

The Statement of Claim was filed on or about November 16, 1999. Answer to Counterclaim was filed on or about April 3, 2000. Submission Agreement of Claimant Christopher Pettengill was signed on November 4, 1999.

Statement of Answer and Counterclaim was filed by Respondent Berthel Fisher & Company Financial Services, Inc. on or about February 3, 2000. Submission Agreement of Respondent Berthel Fisher & Company Financial Services, Inc. was signed on December 23, 1999.

CASE SUMMARY

In the Statement of Claim, Claimant alleged that Respondent wrongfully amended Claimant's Form U-5 to indicate that Claimant was the subject of a customer complaint. Claimant further alleged that Respondent owed him commissions earned on transactions during his employment at Berthel Fisher. Respondent alleged in its Counterclaim that Claimant owed Respondent the balance of commissions advanced to Claimant shortly before his termination from Berthel Fisher.

Respondent denied the allegations in the Statement of Claim and continues to deny that it defamed the claimant in any way. Respondent affirmatively stated that the NASDR, upon reviewing the

customer's complaint letter, interpreted it as a complaint against Claimant and expressly directed Respondent to amend Claimant's Form U-5

Respondent denies that it engaged in defamation of Claimant but is agreeing to a Stipulated Order to avoid the cost of litigation.

RELIEF REQUESTED

In the Statement of Claim, Claimant sought the following relief: expungement of the complaint from Claimant's license, any commissions due and owing and an award for damages arising from the false amendment to Claimant's Form U-5.

Respondent denied that Claimant was entitled to any of the relief sought, and Respondent asked that it be awarded the monies owed to it by Claimant and its costs and expenses, including attorneys' fees, incurred in defending the arbitration.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this matter may be executed by the Chair on behalf of the Arbitration Panel.

AWARD

After considering the parties submissions, the undersigned arbitrator on behalf of the Arbitration Panel and pursuant to the parties agreement, has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimants' withdrawal of their claims is accepted and Respondents are dismissed from this matter with prejudice.
2. All references to the matter concerning William Musselman shall be expunged from the CRD records of Christopher Pettengill (CRD number 1696077).

The Panel directs the NASD to expunge any reference to the matter concerning William Musselman from Christopher Pettengill's CRD record. The panel recommends the expungement of all reference to the above referenced matter from Christopher Pettengill's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Christopher Pettengill must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

3. That to the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto are denied with prejudice.

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	= \$250.00
Counter claim filing fee	= \$500.00

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 Berthel Fisher & Company Financial Services, Inc.

Member surcharge	= \$1,200.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$2,000.00

Forum Fees and Assessments

The Arbitration 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(s) with Panel x \$1,000.00	= \$1,000.00
Pre-hearing conference(s): May 23, 2000	1 session
Total Forum Fees	= \$1,000.00

The Arbitration Panel has assessed \$1,000.00 of the forum fees to Christopher Pettengill.

Fee Summary

Claimant, Christopher Pettengill, shall be and hereby is liable for:

Initial Filing Fee	= \$ 250.00
<u>Forum Fees</u>	<u>= \$1,000.00</u>
Total Fees	= \$1,250.00
<u>Less payments</u>	<u>= \$1,250.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

Respondent, Berthel Fisher & Company Financial Services, Inc., shall be and hereby is liable for:

Counterclaim Filing Fee	= \$ 500.00
Member Fees	= \$3,800.00
<u>Retained Hearing Session Deposit</u>	<u>= \$ 250.00</u>
Total Fees	= \$4,550.00
<u>Less payments</u>	<u>= \$4,550.00</u>
Balance Due NASD Regulation, Inc.	= \$ 0.00

All balances are due to NASD Dispute Resolution, Inc.

Dated:

Peter W. Anson, Esq.
Public Arbitrator, Presiding Chair

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Initial Filing Fee	= \$ 250.00
<u>Forum Fees</u>	= \$1,000.00
Total Fees	= \$1,250.00
<u>Less payments</u>	= \$1,250.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

Respondent, Berthel Fisher & Company Financial Services, Inc., shall be and hereby is liable for:

Counterclaim Filing Fee	= \$ 500.00
Member Fees	= \$3,800.00
<u>Retained Hearing Session Deposit</u>	= \$ 250.00
Total Fees	= \$4,550.00
<u>Less payments</u>	= \$4,550.00
Balance Due NASD Regulation, Inc.	= \$ 0.00

All balances are due to NASD Dispute Resolution, Inc.



Peter W. Anson, Esq.
Public Arbitrator, Presiding Chair

Dated:

AUG. 18, 2000