

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Raymond James Financial Services, Inc., (Claimant) v. Francis Patrick Gemino, Stanley L. Minch, and Igor Chernyak (Respondents)

Case Number: 03-06948

Hearing Site: New York, New York

Nature of the Dispute: Member vs. Associated Persons

REPRESENTATION OF PARTIES

Claimant Raymond James Financial Services, Inc. ("Raymond James") hereinafter referred to as "Claimant": Michael Schwartzberg, Esq., Winget Spadafora & Schwartzberg, LLP, New York, NY.

Respondent Francis Patrick Gemino ("Gemino"): Thomas M. Campbell, Esq., Smith Campbell, LLP, New York, NY.

Respondent Stanley L. Minch ("Minch"): Francis L. Valente, Jr., Esq., Townsend & Valente, LLP, New York, NY.

Respondent Igor Chernyak ("Chernyak"): Appeared *pro se*.

CASE INFORMATION

Statement of Claim filed on or about: September 23, 2003.

Claimant's Reply to Respondent Gemino's Counterclaims filed on or about: January 9, 2004.

Claimant signed the Uniform Submission Agreement: September 19, 2003.

Statement of Answer and Counterclaim filed by Respondent Gemino on or about: November 19, 2003.

Respondent Gemino Amended Counterclaim filed on or about: February 8, 2005.

Respondent Gemino signed the Uniform Submission Agreement: November 19, 2003.

Statement of Answer filed by Respondent Minch on or about: November 25, 2003.

Respondent Minch signed the Uniform Submission Agreement: November 24, 2003.

Statement of Answer and Motion to Dismiss filed by Respondent Chernyak on or about: December 10, 2003.

Respondent Chernyak Amended Motion to Dismiss filed on or about: July 1, 2004.

Respondent Chernyak signed the Uniform Submission Agreement: May 28, 2004.

CASE SUMMARY

Claimant asserted the following causes of action: breach of contract, gross misconduct, negligence, declaratory judgment, contractual indemnity, misrepresentation and conversion.

Unless specifically admitted in his Response, Gemino denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

In his Counterclaim Gemino asserted the following causes of action: declaratory judgment, contractual indemnity, breach of contract, misrepresentation, and conversion.

Unless specifically admitted in their Answers, Respondents Minch, and Chernyak denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested:

Compensatory Damages	\$ 884,801.86
Interest	\$ Unspecified
Attorneys' Fees	\$ Unspecified
Other Costs	\$ Unspecified

Other Non-Monetary Relief: the Panel issues a declaratory judgment that Claimant is entitled to use any and all monies accrued to Respondent Gemino in his Deferred Compensatory/Stock Option Plan through the date of the award in order to satisfy any unpaid portion of the award

Respondent Gemino requested:

Compensatory Damages	\$ Unspecified
Compensatory Damages	\$ 196,945.00
Punitive Damages	\$ 5,000,000.00
Interest	9 % from January 1, 2003
Attorneys' Fees	\$ Unspecified
Other Costs	\$ Unspecified

Other Non-Monetary Relief: declaration that Respondent Gemino is not liable to Claimant pursuant to the indemnification provisions of the ISA Agreement and that Claimant may not confiscate any deferred vested or unvested compensation of stock options that belong to Respondent Gemino.

Respondent Minch requested that the Claims against him be denied and dismissed, costs, disbursements, attorneys' fees, and such other and further relief the Panel may deem just and

proper.

Respondent Chernyak requested that the Statement of Claim be dismissed in his favor and that the Panel award cost of the proceeding, attorneys' fees and all other costs incurred in defending this claim.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Chernyak submitted an Amended Motion to Dismiss. After due consideration, the Panel denied the Motion.

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, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims are dismissed in their entirety.
2. Claimant is liable for and shall pay Respondent Gemino compensatory damages in the amount of \$196,945.00, plus interest at 9% from January 1, 2003 to date of payment of the Award, for conversion of his vested 1999 deferred compensation, payable in December 2002.
3. Claimant is liable for and shall pay Respondent Gemino compensatory damages in the amount of \$436,096.00, plus interest at 9% from January 1, 2004 to date of payment of the Award, for his 2000 deferred compensation, payable in December 2003.
4. Claimant is liable for and shall pay Respondent Gemino compensatory damages in the amount of \$123,479.00, plus interest at 9% from January 1, 2005 to date of payment of the Award, for his 2001 deferred compensation, payable in December 2004.
5. Any and all relief not specifically addressed herein, including punitive damages, is 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	= \$ 1,250.00
Counterclaim	= \$ 600.00

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 persons at the time of the events giving rise to the dispute. Accordingly, Raymond James is a party.

Member surcharge	= \$ 2,250.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 5,500.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

January 12-14 and 18-19, 2005 adjournment by parties: = \$ 1,200.00

Claimant's share is:	= \$ 300.00
Respondent Gemino's share is:	= \$ 300.00
Respondent Minch's share is:	= \$ 300.00
Respondent Chernyak's share is:	= \$ 300.00

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A 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:

Two (2) Pre-hearing sessions with Panel @ \$1,200.00 = \$ 2,400.00
Pre-hearing conferences: June 3, 2004 1 session
March 9, 2005 1 session

Thirty-one (31) Hearing sessions @ \$1,200.00 = \$ 37,200.00
Hearing Dates: March 14, 2005 2 sessions
March 15, 2005 2 sessions
March 16, 2005 2 sessions
March 21, 2005 2 sessions
March 22, 2002 2 sessions
March 23, 2005 2 sessions
April 19, 2005 2 sessions
April 20, 2005 2 sessions
April 21, 2005 2 sessions
April 26, 2005 1 session
May 10, 2005 2 sessions
May 11, 2005 2 sessions
May 12, 2005 2 sessions
July 12, 2005 2 sessions
July 13, 2005 2 sessions
July 14, 2005 2 sessions

Total Forum Fees = \$ 39,600.00

1. The Panel has assessed \$ 9,900.00 of the forum fees to Claimant.
2. The Panel has assessed \$ 9,900.00 of the forum fees to Respondent Gemino.
3. The Panel has assessed \$ 9,900.00 of the forum fees to Respondent Minch.
4. The Panel has assessed \$ 9,900.00 of the forum fees to Respondent Chernyak.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

1. Gemino requested tape for March 16, 2005 hearing date. = \$ 45.00
2. Gemino requested duplicate tapes. = \$ 60.00
3. Raymond James requested tapes for March 14, and 15, 2005 hearing dates. = \$ 120.00
4. Raymond James requested tapes for May 12, 2005 hearing date. = \$ 60.00

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 1,250.00
Member Fees	= \$ 8,500.00
Adjournment Fees	= \$ 300.00
Administrative Costs	= \$ 180.00
<u>Forum Fees</u>	<u>= \$ 9,900.00</u>
Total Fees	= \$ 20,130.00
<u>Less payments</u>	<u>= \$ 11,250.00</u>
Balance Due NASD Dispute Resolution	= \$ 8,880.00

2. Respondent Gemino is solely liable for:

Counterclaim Filing Fee	= \$ 600.00
Adjournment Fees	= \$ 300.00
Administrative Costs	= \$ 105.00
<u>Forum Fees</u>	<u>= \$ 9,900.00</u>
Total Fees	= \$ 10,905.00
<u>Less payments</u>	<u>= \$ 2,205.00</u>
Balance Due NASD Dispute Resolution	= \$ 8,700.00

3. Respondent Minch is solely liable for:

Adjournment Fees	= \$ 300.00
<u>Forum Fees</u>	<u>= \$ 9,900.00</u>
Total Fees	= \$ 10,200.00
<u>Less payments</u>	<u>= \$ 300.00</u>
Balance Due NASD Dispute Resolution	= \$ 9,900.00

4. Respondent Chernyak is solely liable for:

Adjournment Fees:	= \$ 300.00
<u>Forum Fees</u>	= \$ 9,900.00
Total Fees	= \$ 9,900.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 9,300.00

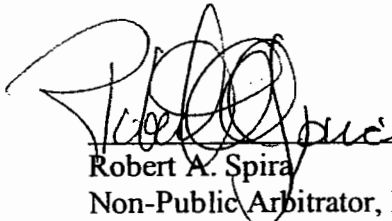
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Robert A. Spira	-	Non-Public Arbitrator, Presiding Chairperson
James E. Howard	-	Non-Public Arbitrator
Norman J. Schwartz	-	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.



Robert A. Spira
Non-Public Arbitrator, Presiding Chairperson

7/26/05
Signature Date

James E. Howard
Non-Public Arbitrator

Signature Date

Norman J. Schwartz
Non-Public Arbitrator

Signature Date

July 29, 2005
Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

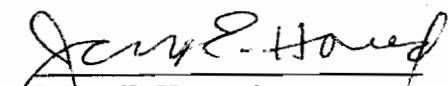
Robert A. Spira - Non-Public Arbitrator, Presiding Chairperson
James E. Howard - Non-Public Arbitrator
Norman J. Schwartz - Non-Public Arbitrator

Concurring Arbitrators' Signatures

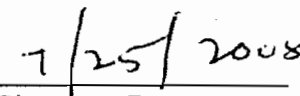
I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.

Robert A. Spira
Non-Public Arbitrator, Presiding Chairperson

Signature Date



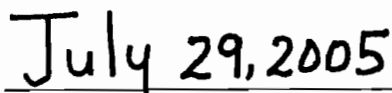
James E. Howard
Non-Public Arbitrator



Signature Date

Norman J. Schwartz
Non-Public Arbitrator

Signature Date



Date of Service (For NASD Dispute Resolution use only)