

**JAMS**

**In the Matter of the Arbitration Between:**

**Claimant,**

**Ref. No. 1420016040**

**and**

**DEPFA Bank, plc**

**Respondent.**

**AMENDED FINAL AWARD: March 22, 2007**

Both parties made timely applications for corrections to the Final Award issued on March 8, 2007. Claimant seeks additional expenses and attorneys' fees. Respondent contends that the expenses and attorneys' fees were computed erroneously and that downward revisions are required. This Amended Final Award, dated March 22, 2007, is based on a thorough consideration of the parties' arguments and exhibits, and the case law cited in their submissions.

**I. Background**

This matter was initiated pursuant to an arbitration agreement (the "Agreement") entered into by the parties, Claimant and Respondent DEPFA Bank, plc, on December 22, 2005. The parties agreed to submit their dispute to final and binding arbitration before a single neutral arbitration under the auspices of JAMS and pursuant to JAMS' Employment Arbitration Rules and Procedures.

After the completion of discovery, the matter was heard on January 30 and 31, and February 1 and 2, 2007 at the New York offices of JAMS, with closing arguments on February 6, 2007. In the course of the hearings, more than 100 documents were admitted into evidence and 1,219 pages of transcript were produced. Testimony was heard from Dr. Thoman Kolbeck, Fulvio Dobrich, Ali Yousefian, Daniel

Bowers, Dermon Cahillane, Vladimir Diminic, and Alfred Daniels, all of whom testified under oath.

Claimant was represented by Barry Lax, Esq, of The Lax Law Firm, 470 Park Avenue South, New York, NY 10016 and by Terence W. McCormick, Esq Respondent was represented by Bettina B. Plevan, Esq and Gershom R. Smith, Esq. of Proskauer Rose, LLP, 1585 Broadway, New York, NY 10036.

At the close of the hearing, counsel confirmed that they wished the Final Award to be in the form of a "bare award," which shall not contain a written statement of the reasons for the award (Tr 1218)

## II. Final Award

The undersigned Arbitrator was designated pursuant to the Agreement dated December 22, 2005 and in accordance with the JAMS Employment Arbitration Rules and Procedures Having been duly sworn, having heard the proofs, and having given full and fair consideration to the evidence submitted, the Arbitrator hereby issues the following Final Award.

Claimant is awarded the following:

a	Unpaid bonus: 600,000 Euros (at \$1.3 to 1E)	\$780,000.00
b.	Interest on unpaid bonus (9% x 780,000 x 2 years)	140,400.00
c.	Attorneys' Fees	223,560.00

Claimant's "hybrid" fee arrangement with counsel included reduced hourly rates (\$200 for Mr. Lax, \$150 for Mr. McCormick) plus a 20% contingency fee. The usual hourly rates for Messrs. Lax and McCormick are \$400 and \$300, respectively.

Attorneys' fees must be reasonable under the circumstances. In the arbitrator's experience, hourly rates of \$400 and \$300 are within the reasonable range for counsel from small firms in this area with commensurate experience. The time expended by counsel is also reasonable (333 hours for Mr. Lax, 204 hours for Mr. McCormick). Thus, the lodestar amount is \$194,400. The arbitrator also determines that a modest discretionary multiplier of 1.15 is appropriate. Accordingly, the amount awarded for attorneys' fees is \$223,560.

d. Expenses \$37,070.73

The original award of expenses contained an error and should have been \$20,931.14. Claimant has documented additional expenses of \$16,139.59<sup>1</sup>. Claimant is therefore awarded expenses of \$37,070.73

Total \$1,181,030.73

**SO ORDERED.**

Vivien B. Shelanski  
VIVIEN B. SHELANSKI, ESQ.  
Arbitrator

Dated: March 22, 2007  
New York, New York

**Affirmation**

I, Vivien B. Shelanski, Esq., do hereby affirm that this Award is true and accurate pursuant to CPLR Section 7507.

Vivien B. Shelanski  
VIVIEN B. SHELANSKI, ESQ.  
Arbitrator

Dated: March 22, 2007  
New York, New York

<sup>1</sup> The arbitrator does not find adequate the documentation for Mr. Daniels' travel and hotel expense.