

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

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In the Matter of the Arbitration Between:  
Dean Witter Reynolds, Inc., Claimant vs. Mohammed Alam, Respondent.

Case Number: 00-00370      Hearing Site: Nashville, Tennessee

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**REPRESENTATION OF PARTIES**

Claimant, Dean Witter Reynolds, Inc. ("Dean Witter"), hereinafter referred to as "Claimant", was represented by Anita M. Britton, Esquire, and Crystal Osborne, Esquire, of Stoll, Keenon & Park, LLP, Lexington, Kentucky.

Respondent, Mohammed Alam ("Alam"), was represented by Scott D. Hall, Esquire, Sevierville, Tennessee.

**CASE INFORMATION**

Claimant's Statement of Claim was filed on or about January 26, 2000.  
Anita M. Britton, Esquire, on behalf of Dean Witter, signed the Uniform Submission Agreement on January 21, 2000.

Respondent's Statement of Answer and Counterclaim was filed on or about April 7, 2000.

Respondent, Mohammed Alam, signed the Uniform Submission Agreement on September 29, 2000.

Claimant's Reply to Respondent's Counterclaim was filed on or about April 20, 2000.

**CASE SUMMARY**

Claimant asserted the following cause of action: breach of margin client contract. This allegation relates to transactions in the following security: JUNO ONLINE.

Unless specifically admitted in his Answer, Respondent denied the allegations made in the Statement of Claim.

Respondent asserted the following causes of action in his Counterclaim: breach of contract and breach of fiduciary duty.

Unless specifically admitted in its Reply to Counterclaim, Claimant denied the allegations made in the Counterclaim and asserted the following affirmative defense: failure to state a claim upon which relief may be granted.

#### RELIEF REQUESTED

Claimant requested:

Compensatory Damages	\$162,763.70
Attorneys' Fees	\$unspecified
Other Costs	\$unspecified

Respondent requested that all claims be dismissed with prejudice.

In his Counterclaim, Respondent requested:

Compensatory Damages	\$100,000.00
Attorneys' Fees	\$unspecified
Other Costs	\$unspecified

In its Reply to Counterclaim, Claimant requested that the Counterclaim be dismissed with prejudice.

#### OTHER ISSUES CONSIDERED AND DECIDED

Due to an illness, the Non-Public arbitrator assigned to this matter was unable to attend the hearing. Prior to the commencement of the hearing, Claimant and Respondent agreed to proceed with the hearing before a Panel of two arbitrators.

At the hearing, Claimant filed a Motion to Estop Respondent from Asserting the Full Text of the Margin Client Agreement. The Panel *denied* the Motion.

At the hearing, Respondent filed a Motion for a Directed Award or Judgment. The Panel *denied* the Motion without prejudice to Respondent's right to raise the Motion again at the close of the hearing.

#### 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 its determination as follows:

1. The Panel finds in favor of the Claimant, Dean Witter Reynolds, Inc., and awards **\$47,666.00** (Forty-seven Thousand Six Hundred Sixty-six Dollars and No Cents) in compensatory damages;

2. The Panel further awards interest at the legal rate, as provided by New York State law, accruing from 30 (Thirty) days after service of this Award until the Award is paid;
3. Respondent, Mohammed Alam, is solely liable to Claimant for the above awarded amounts.
4. Respondent's Counterclaim is dismissed with prejudice.
5. Except as specifically enumerated otherwise herein, each party shall bear its own costs and attorneys' fees.
6. 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, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$1,000
Counterclaim filing fee	= \$ 225

#### **Member Fees**

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person at the time of the event giving rise to the dispute. In this matter, the member firm is Dean Witter Reynolds, Inc.

Member surcharge	= \$1,500
Pre-hearing process fee	= \$ 600
Hearing process fee	= \$2,500

#### **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:

Two (2) Pre-hearing sessions with Panel x \$1,125		= \$2,250
Pre-hearing conference: September 18, 2000	1 session	
December 12, 2000	1 session	

Three (3) Hearing sessions x \$1,125	= \$3,375
Hearing Date: December 18, 2000      2 sessions	
Total Forum Fees	= \$5,625

The Panel has assessed \$2,812.50 of the forum fees against Claimant, Dean Witter, and \$2,812.50 of the forum fees against Respondent, Alam.

**Fee Summary**

1. Claimant, Dean Witter Reynolds, Inc., be and hereby is solely liable for:

Initial Filing Fee	= \$1,000.00
Member Fees	= \$4,600.00
Forum Fees	= \$2,812.50
Total Fees	= \$8,412.50
Less payments	= \$5,900.00
Balance Due NASD Dispute Resolution, Inc.	= \$2,512.50

2. Respondent, Mohammed Alam, be and hereby is solely liable for:

Counterclaim Filing Fee	= \$ 225.00
Forum Fees	= \$2,812.50
Total Fees	= \$3,037.50
Less payments	= \$1,300.00
Balance Due NASD Dispute Resolution, Inc.	= \$1,737.50

All balances are due to NASD Dispute Resolution, Inc.

**Concurring Arbitrators' Signature(s)**

Jeffrey M. Bain  
Jeffrey M. Bain, Esq.  
Public Arbitrator, Presiding Chair

February 20, 2001  
Signature Date

Norman W. Ginsberg  
Norman W. Ginsberg  
Public Arbitrator

February 16, 2001  
Signature Date

February 20, 2001  
Date of Service (For NASD-DR office use only)

02-16-01 FRI 11:05 FAX

NASD REGULATION

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NASD Arbitration # 00-00370  
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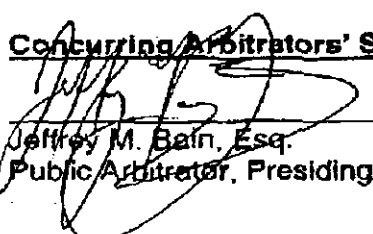
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