

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

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In the Matter of the Arbitration Between:

First Union Brokerage Services, Inc., (Claimant) vs. Lawrence Michael Shender, (Respondent)

Case Number: 00-00499

Hearing Site: New York, New York

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**REPRESENTATION OF PARTIES**

Claimant First Union Brokerage Services, Inc., hereinafter referred to as "Claimant": Brian A. Carlis, Esq., Stark & Stark, Princeton, NJ.

Respondent Lawrence Michael Shender, hereinafter referred to as "Respondent" appeared pro se but did not participate in the hearing in this matter.

**CASE INFORMATION**

Statement of Claim filed on or about: February 1, 2000.

Claimant signed the Uniform Submission Agreement.

Statement of Answer filed by Respondent on or about: May 11, 2000.

Respondent did not sign a Uniform Submission Agreement.

**CASE SUMMARY**

Claimant asserted the following causes of action: breach of Promissory Note and conversion of confidential and proprietary customer files.

Unless specifically admitted in his Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses: Respondent was forced to resign his employment with Respondent because he was being harassed by management; the contract signed by Respondent should be void since Claimant failed to keep the promises made to Respondent at the time of hiring; and Respondent was mislead, lied to, and made to sign a contract under false pretenses.

**RELIEF REQUESTED**

Claimant requested:

- a. The sum of Fifty Thousand (\$50,000.00) Dollars in accordance with the terms

of the Promissory Note;

- b. Interest at the rate of 7 3/4% (pursuant to the terms of the Promissory Note) on the entire amount due, from April 5, 1999 until paid;
- c. All expenses incurred in connection with this proceeding, including the filing fee and any other fees imposed by the NASD;
- d. Reasonable attorneys' fees; and
- e. Such other relief as the Panel deems just and proper.

#### **OTHER ISSUES CONSIDERED AND DECIDED**

Upon review of the file and the representations made on behalf of the Claimant, the undersigned arbitrator (the "Arbitrator") determined that Respondent has been properly served with the Statement of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without Respondent present at the hearing, in accordance with the NASD Code of Arbitration Procedure (the "Code").

Respondent did not file with NASD Dispute Resolution, Inc. a properly executed submission to arbitration but is required to submit to arbitration pursuant to the Code and, having answered the claim, is bound by the determination of the Arbitrator on all issues submitted.

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

1. Respondent be and hereby is liable for and shall pay to Claimant the sum of \$50,000.00 as compensatory damages, plus interest at the rate of 7 3/4% accruing from April 5, 1999 through July 26, 2001 in the total amount of \$8,941.70.
2. Respondent be and hereby is liable for and shall pay to Claimant the sum of \$5,040.00 as attorneys' fees. The Arbitrator awarded attorneys' fees pursuant to the terms of the Promissory Note and Disclosure Statement signed by Respondent.
3. Respondent be and hereby is liable for and shall pay to Claimant the sum of \$181.11 as costs. The Arbitrator awarded costs pursuant to the terms of the Promissory Note and Disclosure Statement signed by Respondent.
4. Respondent be and hereby is liable for and shall pay to Claimant the sum of \$1,000.00, to reimburse Claimant for the filing fee previously paid to NASD Dispute Resolution, Inc.

5. All other requests for relief are hereby 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	= \$1,000.00
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#### **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 events giving rise to the dispute. In this matter, First Union Brokerage Services, Inc. is a party.

Member surcharge	= \$ 800.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$1,000.00

#### **Forum Fees and Assessments**

The Arbitrator 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 arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) Pre-hearing sessions with a single arbitrator x \$450.00	= \$ 900.00
Pre-hearing conferences: August 15, 2000	1 session
March 16, 2001	1 session

One (1) Hearing session x \$450.00	= \$ 450.00
Hearing Date: July 26, 2001	1 session
Total Forum Fees	= \$1,350.00

The Arbitrator has assessed all of the forum fees against Respondent.

### **Fee Summary**

1. Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$1,000.00
Member Fees	= \$2,400.00
Total Fees	= \$3,400.00
Less payments	= \$4,850.00
Refund Due Claimant	= \$1,450.00

*As stated in the "Award" section above, Respondent is liable and shall reimburse Claimant for the \$1,000.00 filing fee.*

2. Respondent be and hereby is solely liable for:

<u>Forum Fees</u>	= \$1,350.00
<u>Total Fees</u>	= \$1,350.00
<u>Less payments</u>	= \$ 0.00
<u>Balance Due NASD Dispute Resolution, Inc.</u>	= \$1,350.00

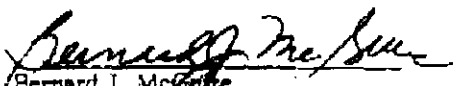
All balances are due and payable to NASD Dispute Resolution, Inc.

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ARBITRATION AWARD

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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.

  
Bernard J. McGuire  
Industry Arbitrator

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Signature Date

August 14, 2001

Date of Service (For NASD office use only)