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## **Stipulated Award**

### **NASD**

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In the Matter of the Arbitration Between:

Name of the Claimant

Buford Campbell

Case Number:

00-00771

Names of the Respondents

BT Alex Brown, Inc. n/k/a DB Alex. Brown LLC,  
Evan Novak, and Everen Securities, Inc. n/k/a First Union Securities, Inc.

Hearing Site:

Tampa, FL

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### **REPRESENTATION OF PARTIES**

For Buford Campbell, hereinafter referred to as "Claimant": Michael S. Taaffe, Esq., Abel, Band, Russell, Collier, Pitchford & Gordon, Chartered, Sarasota, FL.

For Respondent BT Alex Brown, Inc. ("Brown"): Heidi L. Reimer, Esq. and Thomas P. Lloyd, Esq., DB Alex. Brown, LLC, Baltimore, MD.

For Respondent Evan Novak ("Novak"): Brian Carlis, Esq., Stark & Stark, Princeton, NJ. On or about December 19, 2000, John T. McGuire, Esq., John T. McGuire PC, New York, NY, substituted as counsel.

For Respondent Everen Securities, Inc. n/k/a First Union Securities, Inc. ("First Union"): Brian Carlis, Esq., Stark & Stark, Princeton, NJ.

### **CASE INFORMATION**

Statement of Claim filed on or about: February 18, 2000.

Claimant signed the Uniform Submission Agreement: February 15, 2000.

Statement of Answer and Motion to Dismiss filed by Respondent Brown on or about: April 24, 2000.

Statement of Answer filed by Respondents Novak and First Union on or around: April 24, 2000.

Respondent Brown signed the Uniform Submission Agreement: June 5, 2000.

Respondent First Union signed the Uniform Submission Agreement: April 6, 2000.

Respondent Novak signed the Uniform Submission Agreement: April 12, 2000.

Amended Statement of Claim filed by Claimant on or about: March 21, 2000.

Motion to Dismiss filed by Respondent Novak on or about: December 20, 2000.

Motion to Dismiss filed by Respondent First Union on or about: December 20, 2000.

Response to Respondent Novak's and Respondent First Union's Motions to Dismiss filed by Claimant on or about: January 26, 2001.

### **CASE SUMMARY**

Claimant asserted the following causes of action: breach of fiduciary duty; negligent misrepresentation; gross negligence; reckless misconduct; fraud; unsuitability; breach of industry rules and regulations; and a violation under Section 77, Title 15 of the U.S.C. The causes of action relate to Respondents' trading of unspecified securities in Claimant's account.

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

### **RELIEF REQUESTED**

Claimant requested compensatory damages in the amount of \$1,298,473.00, a refund of commissions, a refund of all funds transferred to Respondents, rescission, interest, repayment of any costs or adverse tax consequences incurred due to the acts of Respondents, punitive damages, attorney's fees and costs of arbitration, and any other relief deemed just and equitable.

Respondents requested that the Statement of Claim be dismissed, costs and attorney's fees, and any other relief deemed just and proper.

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

On or about October 11, 2000, Claimant filed with NASD a Notice of Dismissal, which dismissed Respondent Brown from this matter.

On or about February 8, 2001, the undersigned arbitrators (the "Panel") denied Respondent First Union's and Respondent Novak's Motions to Dismiss.

On April 16, 2001, the parties filed with NASD a proposed Stipulated Award.

The parties have agreed that the Stipulated Award in this matter may be executed in counterpart copies.

### **AWARD**

After considering the pleadings and the proposed Stipulated Award, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. As a result of the settlement reached between the parties, all claims against Respondents First Union and Novak are dismissed with prejudice.
2. The Panel recommends the expungement of all references to the above captioned arbitration from Respondent Novak's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Novak must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

**FEES**

Pursuant to the NASD Code of Arbitration Procedure (the "Code"), the following fees are assessed:

**Filing Fees**

NASD will retain or collect the non-refundable filing fees for each claim:

Initial 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 that employed the associated persons at the time of the events giving rise to the dispute. Accordingly, Respondent First Union is assessed:

Member surcharge = \$ 2,500.00  
Pre-hearing process fee = \$ 600.00  
Hearing process fee = \$ 4,500.00

Respondent Brown is assessed:

Member surcharge = \$ 2,500.00  
Pre-hearing process fee = \$ 600.00  
Hearing process fee = \$ 4,500.00

**Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

March 12-14, 2001, adjournment requested by Respondent Novak = \$ 1,200.00

**Injunctive Relief Fees**

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the panel.

Injunctive relief fees were not assessed in this matter.

**Forum Fees and Assessments**

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the Panel, including a pre-hearing conference with the Panel, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with single arbitrator @ \$ 450.00 = \$ 450.00  
Pre-hearing conference: March 27, 2001 1 session

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|   |               |
|---|---------------|
| Three (3) Pre-hearing sessions with the Panel @ \$ 1,200.00 | = \$ 3,600.00 |
| Pre-hearing conference: August 29, 2000 1 session           |               |
| January 16, 2001 1 session                                  |               |
| February 2, 2001 1 session                                  |               |

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|                  |               |
|------------------|---------------|
| Total Forum Fees | = \$ 4,050.00 |
|------------------|---------------|

1. The Panel has assessed \$ 2,025.00 of the forum fees to Claimant.
2. The Panel has assessed \$ 2,025.00 of the forum fees jointly and severally to Respondents First Union and Novak.

#### 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.

Administrative costs were not incurred in this matter.

#### Fee Summary

1. Claimant is solely liable for:

|                    |               |
|--------------------|---------------|
| Initial Filing Fee | = \$ 500.00   |
| Forum Fees         | = \$ 2,025.00 |
| Total Fees         | = \$ 2,525.00 |
| Less payments      | = \$ 2,525.00 |
| Balance Due NASD   | = \$ 0.00     |
2. Respondent First Union is solely liable for:

|                  |               |
|------------------|---------------|
| Member Fees      | = \$ 7,600.00 |
| Total Fees       | = \$ 7,600.00 |
| Less payments    | = \$ 7,600.00 |
| Balance Due NASD | = \$ 0.00     |
3. Respondent Brown is solely liable for:

|                  |               |
|------------------|---------------|
| Member Fees      | = \$ 7,600.00 |
| Total Fees       | = \$ 7,600.00 |
| Less payments    | = \$ 7,600.00 |
| Balance Due NASD | = \$ 0.00     |
4. Respondent Novak is solely liable for:

|                  |               |
|------------------|---------------|
| Adjournment Fees | = \$ 1,200.00 |
| Total Fees       | = \$ 1,200.00 |
| Less payments    | = \$ 1,200.00 |
| Balance Due NASD | = \$ 0.00     |

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5. Respondents First Union and Novak are jointly and severally liable for:

|                         |               |
|-------------------------|---------------|
| <u>Forum Fee Type</u>   | = \$ 2,025.00 |
| <u>Total Fees</u>       | = \$ 2,025.00 |
| <u>Less payments</u>    | = \$ 2,025.00 |
| <u>Balance Due NASD</u> | = \$ 0.00     |

**ARBITRATION PANEL**

|                     |   |  |
|---------------------|---|--|
| J. Gary Shirk, Esq. | - | Public Arbitrator, Presiding Chairperson |
| Alexander J. Fedor  | - | Public Arbitrator                        |
| James A. Hume       | - | Non-Public Arbitrator                    |

**Concurring Arbitrators' Signatures**

/s/  
J. Gary Shirk, Esq.  
Public Arbitrator, Presiding Chairperson

\_\_\_\_\_  
Signature Date

/s/  
Alexander J. Fedor  
Public Arbitrator

\_\_\_\_\_  
Signature Date

/s/  
James A. Hume  
Non-Public Arbitrator

\_\_\_\_\_  
Signature Date

July 22, 2002

Date of Service (For NASD office use only)

NASD

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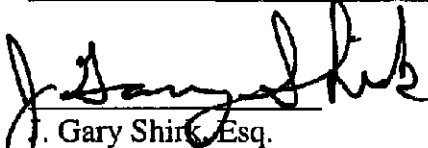
5. Respondents First Union and Novak are jointly and severally liable for:

|                         |               |
|-------------------------|---------------|
| <u>Forum Fee Type</u>   | = \$ 2,025.00 |
| <u>Total Fees</u>       | = \$ 2,025.00 |
| <u>Less payments</u>    | = \$ 2,025.00 |
| <u>Balance Due NASD</u> | = \$ 0.00     |

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| Alexander J. Fedor  | - | Public Arbitrator                        |
| James A. Hume       | - | Non-Public Arbitrator                    |

Concurring Arbitrators' Signatures



J. Gary Shirk, Esq.  
Public Arbitrator, Presiding Chairperson

7-8-02

Signature Date

Alexander J. Fedor  
Public Arbitrator

Signature Date

James A. Hume  
Non-Public Arbitrator

Signature Date

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J. Gary Shirk, Esq.  
Public Arbitrator, Presiding Chairperson

\_\_\_\_\_  
Signature Date

Alexander J. Fedor  
Alexander J. Fedor  
Public Arbitrator

July 5<sup>th</sup> 2002  
Signature Date

\_\_\_\_\_  
James A. Hume  
Non-Public Arbitrator

\_\_\_\_\_  
Signature Date

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J. Gary Shirk, Esq.  
Public Arbitrator, Presiding Chairperson

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Signature Date

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Alexander J. Fedor  
Public Arbitrator

\_\_\_\_\_  
Signature Date

  
James A. Hume  
Non-Public Arbitrator

7-10-02  
Signature Date

\_\_\_\_\_  
Date of Service (For NASD office use only)