

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

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In the Matter of the Arbitration Between:

Ferer 1988 Living Trust, Claimant v. First Union Securities, Inc., Dennis B. Dummit and Ernest Surawa, Respondents

Case Number: 00-03507

Hearing Site: Los Angeles, California

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**REPRESENTATION OF PARTIES**

For Claimant:

Alan Buckholtz, Esq.  
Law Offices of Buckholtz &  
Associates  
Woodland Hills, California

For Respondents:

Michael M. Gless, Esq.  
Keesal, Young & Logan  
Long Beach, California

**CASE INFORMATION**

Statement of Claim filed: August 10, 2000

Claimant's Uniform Submission Agreement filed: August 10, 2000

Joint Statement of Answer filed by Respondents First Union Securities, Inc., Dennis B. Dummit and Ernest Surawa: November 24, 2000

Respondent First Union Securities, Inc.'s Uniform Submission Agreement signed: October 16, 2000

Respondent Dennis B. Dummit's Uniform Submission Agreement signed: October 23, 2000

Respondent Ernest Surawa's Uniform Submission Agreement signed: October 23, 2000

### **CASE SUMMARY**

Claimant alleged fraud, deceit, and breach of fiduciary duty. The dispute involved the purchase and/or sale of the following bonds: Paging Network, Trump, C.H.S., and Crown Paper.

Respondents denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim.

### **RELIEF REQUESTED**

Claimant requested \$65,000.00 in compensatory damages and unspecified interest against Respondents First Union Securities, Inc., Dennis B. Dummit and Ernest Surawa. Claimant requested \$150,000.00 in punitive damages against Respondents First Union Securities, Inc. and Dennis B. Dummit. Additionally, Claimant sought reimbursement for attorney's fees and arbitration costs from Respondents First Union Securities, Inc., Dennis B. Dummit, and Ernest Surawa.

Respondents requested dismissal of the Claimant's Statement of Claim in its entirety, and sought reimbursement for arbitration costs.

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

On July 6, 2001, NASD Dispute Resolution, Inc. received a Stipulation for Dismissal of Respondent Ernest Surawa.

NASD Dispute Resolution, Inc. received notification the case settled. However, Respondents Dennis B. Dummit and Ernest Surawa requested a hearing on their Motion for Expungement.

The parties 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, testimony, and evidence presented at the hearing, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Dennis B. Dummit's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Dennis B. Dummit must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

- 2) The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Ernest Surawa's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Ernest Surawa must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

NASD Dispute Resolution, Inc. received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 300.00
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#### **Member Fees**

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events which gave rise to the dispute, claim, or controversy. Accordingly, the member firm First Union Securities, Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 1,500.00
Pre-Hearing Process Fee	= \$ 600.00
Hearing Process Fee	= \$ 2,500.00
<b>Total Member Fees</b>	<b>= \$ 4,600.00</b>

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

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Panel. The following fees are assessed:

1 Pre-hearing conference session with the Panel @ \$ 1,125.00/session	= \$ 1,125.00
Pre-hearing conference: March 19, 2001 1 session	
1 Hearing session @ \$ 1,125.00/session	= \$ 1,125.00
Hearing: July 23, 2001 1 session	
<b>Total Forum Fees</b>	<b>= \$ 2,250.00</b>

1. The Panel assessed \$ 562.50 of the forum fees to Claimant Ferer 1988 Living Trust.

2. The Panel assessed \$ 562.50 of the forum fees jointly and severally to Respondents First Union Securities, Inc., Dennis B. Dummit and Ernest Surawa.
3. The Panel assessed \$ 1,125.00 of the forum fees jointly and severally to Respondents Dennis B. Dummit and Ernest Surawa.

**Fee Summary**

1. Claimant Ferer 1988 Living Trust is charged with the following fees and costs:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	= \$ 562.50
Total Fees	= \$ 862.50
<u>Less payments</u>	= \$(1,425.00)
<b>Refund Due Claimant</b>	<b>= \$ (562.50)</b>

2. Respondent First Union Securities, Inc. is charged with the following fees and costs:

Member Fees	= \$ 4,600.00
<u>Less payments</u>	= \$(4,600.00)
<b>Balance Due NASD Dispute Resolution, Inc.</b>	<b>= \$ 0.00</b>

3. Respondents First Union Securities, Inc., Dennis B. Dummit and Ernest Surawa are charged jointly and severally with the following fees and costs:

Forum Fees	= \$ 562.50
<u>Less Payment by First Union Securities, Inc.</u>	= \$ (600.00)
<b>Refund Due First Union Securities, Inc.</b>	<b>= \$ (37.50)</b>

1. Respondents Dennis B. Dummit and Ernest Surawa are charged jointly and severally with the following fees and costs:

<u>Forum Fees</u>	= \$ 1,125.00
<b>Balance Due NASD Dispute Resolution, Inc.</b>	<b>= \$ 1,125.00</b>

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

**ARBITRATION PANEL**

Fredric R. Horowitz, Esq.	"	Public, Presiding Chair
Howard N. Hamel, J.D.	-	Public Arbitrator
John B. Wells	-	Non-Public Arbitrator

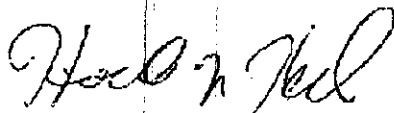
**Concurring Arbitrators' Signature(s)**

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Fredric R. Horowitz, Esq.  
Chair, Public Arbitrator

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Signature Date



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Howard N. Hamel, J.D.  
Public Arbitrator

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7/25/01  
Signature Date

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John B. Wells  
Non-Public Arbitrator

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Signature Date

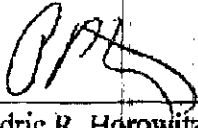
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7/25/01  
Date of Service

**ARBITRATION PANEL**

Fredric R. Horowitz, Esq.	-	Public, Presiding Chair
Howard N. Hamel, J.D.	-	Public Arbitrator
John B. Wells	-	Non-Public Arbitrator

**Concurring Arbitrators' Signature(s)**

  
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Fredric R. Horowitz, Esq.  
Chair, Public Arbitrator

7/28/01  
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Signature Date

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Howard N. Hamel, J.D.  
Public Arbitrator

\_\_\_\_\_  
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Chair, Public Arbitrator

Signature Date

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Public Arbitrator

Signature Date

John B. Wells

John B. Wells  
Non-Public Arbitrator

7/25/01  
Signature Date

7/26/01  
Date of Service