

**Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Name of the Claimant  
Dean Witter Reynolds, Inc.

Case Number  
00-03930

Name of the Respondents  
Jonathan M. Leifer

Hearing Site  
Los Angeles, California

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**REPRESENTATION OF PARTIES**

For Claimant:

Rene J. Kern, Jr.  
Kern & Gonzalez  
Los Angeles, California

For Respondent, Jonathan M. Leifer

H. Thomas Fehn  
Fields, Fehn & Sherwin  
Los Angeles, California

**CASE INFORMATION**

Statement of Claim filed on or about September 6, 2000.

Statement of Answer filed by Respondent on or about October 31, 2000.

Objections to Respondent's Statement of Answer filed by Claimant on or about November 6, 2000.

Claimant signed the Uniform Submission Agreement on or about August 29, 2000.

**CASE SUMMARY**

Claimant asserted that Respondent Jonathan M. Leifer failed to pay a promissory note under the terms of the parties' Loan Commitment Agreement. Claimant alleged that Respondent Jonathan M. Leifer was obligated and failed to make repayment of the loan under the terms of said agreement.

Respondent denied Claimant's allegations and requested a dismissal of all claims. Respondent asserted that the monies received from Respondent were not loans, but a "sign-up" bonus and compensation for accepting employment with Claimant. Respondent claimed any acceptance on his part of the parties' Loan Commitment Agreement was made under false pretenses and therefore not enforceable.

### **RELIEF REQUESTED**

Claimant requested compensatory damages in the amount of \$166,310.00 and costs, including attorney's fees.

Respondent Jonathan M. Leifer requested dismissal of the Claimant's Statement of Claim in its entirety.

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

At the June 19, 2002 evidentiary hearing, Claimant moved for a directed verdict. After considering the motion, the Panel denied Claimant's motion.

Respondent Jonathan M. Leifer did not file with NASD Dispute Resolution a properly executed submission agreement; however, said Respondent is required to submit to arbitration and, having answered the claim and having appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

### **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. Respondent Jonathan M. Leifer is liable to and shall pay Claimant the sum of \$166,310.00 in compensatory damages.
2. Respondent Jonathan M. Leifer is liable to and shall pay Claimant interest in the amount of 10% per annum on \$166,310.00 from November 12, 1999, until the date compensatory damages are paid to Claimant.
3. Respondent Jonathan M. Leifer is liable to and shall pay Claimant the sum of \$1,000.00 as reimbursement for the Statement of Claim Initial Claim Filing Fee paid by Claimant to NASD Dispute Resolution.
4. Any and all relief not specifically addressed herein is denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

NASD Dispute Resolution 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. Accordingly, Dean Witter Reynolds, Inc. is a party and the following fees are assessed:

Member surcharge	= \$ 1,500.00
Pre-hearing process fee	= \$ 600.00
<u>Hearing process fee</u>	<u>= \$ 2,500.00</u>
Total Member Fees	\$ 4,600.00

**Adjournment Fees**

The following adjournment fees are assessed:

October 23, 2002 and October 24, 2002, adjournment requested by Claimant	= \$ 1,125.00
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**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 or Chairperson, including a pre-hearing conference that lasts four (4) hours or less. Fees associated with these proceedings are:

1 Pre-hearing conference session with a single arbitrator @ \$450.00	= \$ 450.00
Pre-hearing conference: July 18, 2001 1 session	
2 Pre-hearing conference sessions with the Panel @ \$1,125.00	= \$ 2,250.00
Pre-hearing conference: May 25, 2001 1 session	
March 12, 2002 1 session	
2 Hearing sessions @ \$1,125.00	= \$ 2,250.00
Hearing Date: June 19, 2002 2 sessions	
Total Forum Fees	= \$ 4,950.00

1. The Panel has assessed \$3,825.00 of the forum fees to Respondent Jonathan M. Leifer.
2. The Panel waived the \$1,125.00 forum fee for the March 12, 2002 pre-hearing conference.

**Fee Summary**

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 1,000.00
Member Fees	= \$ 4,600.00
Adjournment Fee	= \$ 1,125.00
<u>Forum Fees</u>	= \$ 0.00
Total Fees	= \$ 6,725.00
<u>Less payments</u>	=( \$ 7,850.00)
Refund due Claimant	= (\$1,125.00)

2. Respondent Jonathan M. Leifer is solely liable for:

<u>Forum Fees</u>	= \$ 3,825.00
Total Fees	= \$ 3,825.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 3,825.00

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

**ARBITRATION PANEL**

Leo Rotter

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Non-Public Arbitrator,  
Presiding Chairperson

Thomas Doyle

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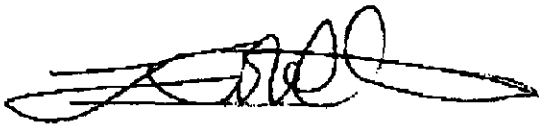
Non-Public Arbitrator

Paul Wollner

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Non-Public Arbitrator

**Concurring Arbitrators' Signature(s)**



Leo Rotter  
Non-Public Arbitrator, Chair

8-15-02

Signature Date

Thomas Doyle  
Non-Public Arbitrator

Signature Date

Paul Wollner  
Non-Public Arbitrator

Signature Date

August 15, 2002

Date of Service  
(For NASD use only)

**ARBITRATION PANEL**

Leo Rotter	-	Non-Public Arbitrator, Presiding Chairperson
Thomas Doyle	-	Non-Public Arbitrator
Paul Wollner	-	Non-Public Arbitrator

**Concurring Arbitrators' Signature(s)**

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Leo Rotter  
Non-Public Arbitrator, Chair

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*Thomas J. Doyle*  
Thomas Doyle  
Non-Public Arbitrator

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

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*8/15/02*  
Signature Date

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Paul Wollner  
Non-Public Arbitrator

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Signature Date

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Leo Rotter

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Presiding Chairperson

Thomas Doyle

Non-Public Arbitrator

Paul Wollner

Non-Public Arbitrator

Concurring Arbitrators' Signature(s)

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