

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

First Union Securities, Inc. (Claimant) v. Darryl L. Capparelli (Respondent)

Case Number: 00-05290

Hearing Site: Houston, Texas

REPRESENTATION OF PARTIES

Claimants First Union Securities, Inc., hereinafter referred to as "Claimant," was represented by Edward A. Walton, Esq., of Kane & Fisher, Ltd., Chicago IL.

Respondent Darryl L. Capparelli of Houston Texas, hereinafter referred to as "Respondent," represented himself.

CASE INFORMATION

Statement of Claim filed on or about: February 20, 2001.

Claimant signed the Uniform Submission Agreement on November 28, 2000.

Respondent filed a Statement of Answer on or about May 4, 2001.

Respondent signed the Uniform Submission Agreement on April 2, 2001.

CASE SUMMARY

Claimants asserted the following causes of action: The action is brought by a securities brokerage firm to recover the balance due on a loan given to a former employee. The claimant alleges breach of contract and failure to pay on a promissory note.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses: misrepresentation of the facts surrounding the terms of the employment agreement.

RELIEF REQUESTED

Claimant requested:

Compensatory Damages	\$ 32,158.24
Interest	\$ Unspecified
Attorneys' Fees	\$ Unspecified

Other Costs

\$ Unspecified

Respondent Darryl L. Capparelli requested that the Statement of Claim be dismissed in its entirety.

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 determination as follows:

1. Respondent Darryl L. Capparelli is liable for and shall pay to Claimant First Union Securities (f/k/a Everen Securities Inc.), compensatory damages equal to the principal balance on the promissory note in the sum of \$21, 438.82. plus interest accrued on the note at a rate of 6 % or \$1,286.33 that shall begin to accrue on January 14, 2000 and shall cease to accrue on January 14, 2002;
2. Respondent Darryl L. Capparelli is liable for and shall pay to Claimant First Union Securities (f/k/a Everen Securities Inc.) attorneys' fees in the sum of \$ 9,046.50. Based on the pleading and evidence presented at the hearing the panel finds that it has the authority to grant attorneys' fees.
3. Respondent Darryl L. Capparelli is liable for and shall pay to Claimant First Union Securities (f/k/a Everen Securities Inc.), costs in the sum of \$2,232.9.00;
4. Except as otherwise specified herein, each party shall bear its own costs and attorney's fees;
5. 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, 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(s) that employed the associated person at the time of the event(s) giving rise to the dispute. In this matter, the member firm is Claimant First Union Securities (f/k/a Everen Securities Inc.)

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

Forum Fees and Assessments

The Panel has the authority to assess 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:

One (1) Pre-hearing session with the Panel x \$600.00 = \$ 600.00
 Pre-hearing conference: July 18, 2001 1 session

One (1) Hearing sessions x \$600.00 = \$ 600.00
 Hearing Date(s): January 14, 2002 1 session

Total Forum Fees = \$ 1,200.00

The panel has assessed \$600.00 of the forum fees against Claimant First Union Securities (f/k/a Everen Securities, Inc.) and assessed the remaining \$600.00 of the forum fees against Respondent Darryl L. Capparelli.

FEE SUMMARY

Claimant First Union Securities (f/k/a Everen Securities, Inc.) is liable for:

Initial Filing Fee	= \$ 1,000.00
Member Fees	= \$ 2,400.00
Forum Fees	= \$ 600.00
<u>Less payments</u>	= \$ 4,000.00
Balance Refunded by NASD Dispute Resolution, Inc.	= \$ 00

Respondent Darryl L. Capparelli is liable for:

Forum Fees	= \$ 600.00
<u>Less payments</u>	= \$ 00
Balance due to NASD Dispute Resolution, Inc.	= \$ 600.00

All balances are due to the NASD Dispute Resolution, Inc.

ARBITRATION PANEL

Eli Bensky-Non-Public Arbitrator, Presiding Chair
 John M. Geer- Non-Public Arbitrator
 Walter F. Schleyer-Non-Public Arbitrator

Concurring Arbitrators' Signatures

 John M. Greer,
 Non-Public Arbitrator

 Signature Date

Eli Bensky
Non-public Arbitrator, Presiding Chair

Signature Date

Walter F. Schleyer
Non-Public Arbitrator

Signature Date

Date of Service (For NASD-Dispute Resolution office use only)

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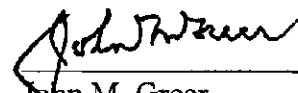
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 John M. Greer,
 Non-Public Arbitrator

3/14/02
 Signature Date

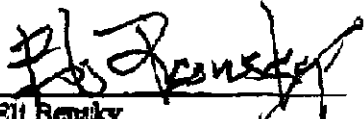
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Eli Bensky

Non-public Arbitrator, Presiding Chair

03/14/02
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Walter F. Schleyer

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