

**Award
NASD Dispute Resolution**

In the Matter of the Arbitration Between:

Name of the Claimant

Case Number: 01-00016

First Union Securities, Inc.,

Name of the Respondent

Hearing Site: Houston, Texas

Thomas York,

REPRESENTATION OF PARTIES

Claimant First Union Securities, Inc, hereinafter referred to as "Claimant," was represented by Diane C. Fisher, Esq. and Thomas M. Volz, Esq. of Kane & Fisher located in Chicago, Illinois.

Respondent Thomas York, hereinafter referred to as "Respondent," did not appear at the hearing. Respondent was previously represented by H. Thomas Fehn, Esq. of Field, Fehn & Sherwin located in Los Angeles, California.

CASE INFORMATION

The Statement of Claim was filed on or about January 3, 2001.

The Amended Statement of Claim was filed on or about May 4, 2001.

Claimant signed the Uniform Submission Agreement on December 15, 2000.

Respondent filed the Statement of Answer on or about July 2, 2001.

Respondent did not sign a Uniform Submission Agreement.

CASE SUMMARY

This is an action by a securities brokerage firm to recover a balance due pursuant to four Promissory Notes given to Respondent, a former broker with First Union Securities. Claimant alleged that Respondent has failed and refused to honor his obligations under the outstanding Promissory Notes.

In his Statement of Answer on file, Respondent contended that Claimant made it impossible for him to continue his employment by prohibiting Respondent from trading in certain securities.

Respondent further alleged that Respondent mistakenly thought that the Promissory Notes were a series of production bonuses, rather than forgivable loans. Respondent asserted that he should be excused from payment of the Promissory Notes based on the reasons stated.

RELIEF REQUESTED

In the Statement of Claim on file, Claimant requested:

Compensatory Damages:

Note 1 \$11,715.81

Note 2 \$13,298.88

Note 3 \$14,104.00

Note 4 \$29,909.00

Interest:

Note 1 \$34.74

Note 2 \$39.42

Note 3 \$686.72

Note 4 \$1,357.92

Additional interest at statutory rate

Attorneys' Fees

Unspecified

Other Costs

Unspecified

Respondent requested that the claim be dismissed with prejudice.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent moved in June 2002 to change venue. The panel unanimously denied the motion.

Claimant moved in January 2003 to conduct the hearing telephonically. The panel unanimously denied the motion.

Upon review of the file and the representations made by/on behalf of the Claimant, the undersigned arbitrators have 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 said Respondent present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

Respondent did not file with NASD Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to the Code is bound by the determination of the Panel on all issues submitted.

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

1. That Respondent Thomas York is liable for and shall pay to Claimant First Union Securities, Inc. compensatory damages in the amount of \$81,977.82, representing an award of principal and interest due on the promissory notes;
2. That Respondent Thomas York is liable for and shall pay to Claimant First Union Securities, Inc. its attorney fees in the amount of \$15,000.00. The panel finds it has the authority to award attorney fees based on the contract between the parties, Illinois law (1st and 2nd promissory notes), and North Carolina law (3rd and 4th promissory notes);
3. That Respondent Thomas York is liable for and shall pay to Claimant First Union Securities, Inc. its costs in the amount of \$6,666.64.
4. That Respondent Thomas York is liable for and shall reimburse Claimant First Union Securities, Inc. for the NASD filing fee in the amount of \$1,000.00; and
5. Any and all relief not specifically addressed herein, including punitive damages, 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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. First Union Securities, Inc. is a member firm.

Member surcharge	= \$ 1,000.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$ 1,500.00

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A 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:

Two (2) Pre-hearing session(s) with Panel @ \$750	= \$ 1,500.00
Pre-hearing conference(s): April 12, 2002	1 session
December 13, 2002	1 session

One (1) Hearing session @ \$750	= \$ 750.00
Hearing Date(s): February 13, 2003	1 sessions

Total Forum Fees	= \$ 2,250.00
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1. The Panel has assessed all forum fees in the amount of \$2,250.00 to Thomas York.

Fee Summary

Claimant is solely liable for:

Initial Filing Fee	= \$ 1,000.00
Member Fees	= \$ 3,100.00
Total Fees	= \$ 4,100.00
Less payments	= \$ 5,850.00
Refund Due from NASD Dispute Resolution	= \$ 1,750.00

Respondent is liable for:

Forum Fees	= \$ 2,250.00
Total Fees	= \$ 2,250.00
Less payments	= \$ 00.00
Balance Due NASD Dispute Resolution	= \$ 2,250.00

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

ARBITRATION PANEL

Mark C. Watler, J.D. – Non-Public Arbitrator, Presiding Chairperson
Dolores Martin – Non-Public Arbitrator
Nathan Levy – Non-Public Arbitrator

Concurring Arbitrators' Signature(s)

/s/ Mark C. Watler, J.D.

Mark C. Watler, J.D.

Non-Public Arbitrator, Presiding Chairperson

February 20, 2003

Signature Date

/s/ Dolores Martin

Dolores Martin

Non-Public Arbitrator

February 20, 2003

Signature Date

/s/ Nathan Levy

Nathan Levy

Non-Public Arbitrator

February 19, 2003

Signature Date

February 24, 2003

Date of Service (For NASD Dispute Resolution use only)

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Mark C. Watler, J.D. - Non-Public Arbitrator, Presiding Chairperson
Dolores Martin - Non-Public Arbitrator
Nathan Levy - Non-Public Arbitrator

Concurring Arbitrators' Signature(s)



Mark C. Watler, J.D.
Non-Public Arbitrator, Presiding Chairperson

Feb. 20, 2003
Signature Date

Dolores Martin
Non-Public Arbitrator

Signature Date

Nathan Levy
Non-Public Arbitrator

Signature Date

Date of Service (For NASD Dispute Resolution use only)

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Dolores Martin - Non-Public Arbitrator
Nathan Levy - Non-Public Arbitrator

Concurring Arbitrators' Signature(s)

Mark C. Watler, J.D.
Non-Public Arbitrator, Presiding Chairperson

Signature Date

Dolores Martin
Dolores Martin
Non-Public Arbitrator

2-20-03
Signature Date

Nathan Levy
Non-Public Arbitrator

Signature Date

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NASD Dispute Resolution
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Dolores Martin - Non-Public Arbitrator
Nathan Levy - Non-Public Arbitrator

Concurring Arbitrators' Signature(s)

Mark C. Watler, J.D.
Non-Public Arbitrator, Presiding Chairperson

Signature Date

Dolores Martin
Non-Public Arbitrator

Signature Date


Nathan Levy
Non-Public Arbitrator

2/19/03
Signature Date

Date of Service (For NASD Dispute Resolution use only)