

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

First Union Securities, Inc., (Claimant) vs. Daniel Bushey, Jr., (Respondent)

Case Number: 01-00233

Hearing Site: New York, NY

REPRESENTATION OF PARTIES

Claimant, First Union Securities, Inc., hereinafter referred to as "Claimant": Ronald P. Kane, Esq., Kane & Fischer, Ltd., Chicago, IL.

Respondent, Daniel Bushey, Jr., hereinafter referred to as "Respondent": David S. Erdos, Esq., Erdos & Maddox, LLC, Stamford, CT.

CASE INFORMATION

Statement of Claim filed on or about: January 16, 2001

Claimant signed the Uniform Submission Agreement: January 9, 2001

Claimant's Response to Counterclaim filed on or about: May 9, 2001

Statement of Answer and Counterclaim filed by Respondent on or about: March 30, 2001

Respondent signed the Uniform Submission Agreement: March 30, 2001

CASE SUMMARY

Claimant alleged that Respondent failed to honor his obligations under an outstanding promissory note.

Unless specifically admitted in his Answer, Respondent denied the allegations made in the Statement of Claim. In his counterclaim Respondent alleged that, in order to entice him leave his former employer and accept a position with Claimant, Claimant made certain promises to him, but that these promises were breached by Claimant.

RELIEF REQUESTED

Claimant requested the following:

- a. \$204,940.80, the principal balance due and owing under the Note;
- b. \$15,727.82, interest accrued on the Note from 3/17/99 through 11/7/2001;
- c. \$2,422.04, reimbursement for charges on Respondent's corporate Visa account;
- d. interest at the statutory rate (8% per annum) from 12/18/00 through 11/7/01 for charges on Respondent's corporate Visa account; and
- e. \$29,095.54, attorney's fees and costs.

Respondent requested: that the Statement of Claim be denied in its entirety and dismissed; that he be awarded the amount of \$1,000,000.00 to \$3,000,000.00 on his counterclaim; that he be awarded the costs of this proceeding, including reasonable attorneys' fees; and that the Arbitrators grant any other relief as they deem just and equitable.

OTHER ISSUES CONSIDERED AND DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

Prior to the hearing, both parties moved to compel the production of documents. Both motions were granted in part and denied in part by the Panel. Prior to the hearing, Respondent moved to adjourn the hearings. The Panel denied this motion. During the hearing, Respondent renewed his motion to compel and his motion to adjourn. The Panel denied the renewed motions.

During the hearing, Claimant moved to quash a subpoena. The Panel denied this motion.

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 is hereby liable and shall pay to Claimant compensatory damages in the amount of \$206,940.80.
2. Respondent is hereby liable and shall pay to Claimant interest in the amount of \$15,727.82.
3. Respondent is hereby liable and shall pay to Claimant attorneys' fees and costs in the amount of \$20,370.54. Attorneys' fees and costs are being awarded pursuant to the terms of the Promissory Note.
4. Claimant's request for fees previously paid to NASD Dispute Resolution is denied.
5. Respondent's counterclaim is hereby denied in its entirety.
6. All other requests for relief are 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
Counterclaim 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 person at the time of the events giving rise to the dispute. In this matter, the member firm is a party.

Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$600.00
Hearing process fee	= \$4,500.00

Forum Fees and Assessments

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

One (1) Pre-hearing session with Panel x \$1,200.00 = \$1,200.00
Pre-hearing conference: August 7, 2001 1 session

Six (6) Hearing sessions x \$1,200.00 = \$7,200.00
Hearing Dates: November 7, 2001 2 sessions
November 8, 2001 2 sessions
November 9, 2001 1 session

Total Forum Fees = \$8,400.00

1. The Panel has assessed \$6,300.00 of the forum fees against Claimant.
2. The Panel has assessed \$2,100.00 of the forum fees against Respondent.

Fee Summary

1. Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$ 1,000.00
Member Fees	= \$ 6,600.00
<u>Forum Fees</u>	<u>= \$ 6,300.00</u>
Total Fees	= \$13,900.00
<u>Less payments</u>	<u>= \$ 8,725.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 5,175.00

2. Respondent be and hereby is solely liable for:

Counterclaim Filing Fee	= \$ 500.00
<u>Forum Fees</u>	<u>= \$2,100.00</u>
Total Fees	= \$2,600.00
<u>Less payments</u>	<u>= \$2,900.00</u>
Refund Due Respondent	= \$ 300.00


All balances are due and payable to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

Vincent P. Sarnatora	-	Industry Arbitrator, Presiding Chair
Vicki Z. Holleman, Esq.	-	Industry Arbitrator
Joseph Kosinsky, MBA	-	Industry Arbitrator

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.



Vincent P. Sarnatora
Industry Arbitrator, Presiding Chair

12.12.01

Signature Date

Vicki Z. Holleman, Esq.
Industry Arbitrator

Signature Date

Joseph Kosinsky, MBA
Industry Arbitrator

Signature Date

December 18, 2001

Date of Service (For NASD office use only)

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Vicki Z. Holleman, Esq.	-	Industry Arbitrator
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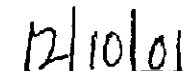
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Industry Arbitrator



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