

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

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In the Matter of the Arbitration Between:

West America Securities Corp., Claimant and Counter-Respondent v. Craig Alan Brandwein,  
Respondent and Counter-Claimant

Case Number: 01-02615

Hearing Site: Los Angeles, California

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**REPRESENTATION OF PARTIES**

For Claimant and Counter-Respondent:

Elizabeth Lowery, Esq.  
Fields, Fehn & Sherwin  
Los Angeles, California

For Respondent and Counter-Claimant:

Craig Alan Brandwein  
In Propria Persona  
Smithtown, New York

**CASE INFORMATION**

Statement of Claim filed: May 15, 2001

Claimant's Uniform Submission Agreement signed: May 15, 2001

Statement of Answer and Counterclaim filed by Respondent: August 10, 2001

Respondent's Uniform Submission Agreement signed: August 1, 2001

**CASE SUMMARY**

Claimant alleged breach of contract.

Respondent denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim and filed a Counterclaim alleging misrepresentation and fraud.

### **RELIEF REQUESTED**

Claimant requested \$145,439.82 in compensatory damages, 8% interest from May 1, 2001 to the date of payment in full, punitive damages of at least \$25,000.00, and reimbursement of costs, including attorney's fees. Claimant also requested that the Panel make an immediate disciplinary referral.

Respondent requested dismissal of the Claimant's Statement of Claim in its entirety and filed a Counterclaim requesting reimbursement of \$40,000.00 paid to Claimant, costs and attorney's fees.

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

On April 3, 2002, Claimant's counsel withdrew from representation. On April 9, 2002, at the commencement of the hearing, the Panel advised Claimant of his right to be represented by counsel. Claimant elected to represent himself.

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) Respondent is liable to and shall pay Claimant \$60,000.00 in compensatory damages.
- 2) This Award shall bear interest at the rate of 6% per annum on any balance that remains unpaid thirty (30) days after receipt hereof, unless a motion to vacate has been filed with a court of competent jurisdiction. If this award is the subject of a motion to vacate that is subsequently denied, this award shall bear interest at the rate of 6% per annum on any balance that remains unpaid from date of the court's order denying said motion to vacate.
- 3) Respondent's counterclaim is dismissed in its entirety.
- 4) The parties shall bear their respective costs, including attorney's fees.
- 5) All other relief requested and not expressly granted is denied.

### **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	= \$ 1,000.00
Counterclaim	= \$ 175.00

#### **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 that gave rise to the dispute, claim, or controversy. Accordingly, the member firm West America Securities Corp. 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>
<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 Chair/Panel. The following fees are assessed:

Two (2) Pre-hearing conference sessions with the Panel @ \$1,125/session	= \$ 2,250.00
Pre-hearing conference dates:	December 5, 2001 1 session
	February 27, 2002 1 session
Two (2) Hearing sessions @ \$1,125/session	= \$ 2,250.00
Hearing date:	April 8, 2002 2 sessions
<b>Total Forum Fees</b>	<b>= \$ 4,500.00</b>

1. The Panel assessed \$2,250.00 of the forum fees to Claimant West America Securities Corp.
2. The Panel assessed \$2,250.00 of the forum fees to Respondent Craig Alan Brandwein.

**Fee Summary**

1. Claimant West America Securities Corp. is charged with the following fees and costs:

Initial Filing Fee	= \$ 1,000.00
Member Fees	= \$ 4,600.00
Forum Fees	= \$ 2,250.00
Total Fees	= \$ 7,850.00
Less payments	= \$(3,625.00)
<b>Balance Due NASD Dispute Resolution, Inc.</b>	<b>= \$ 4,225.00</b>

2. Respondent and Counterclaimant Craig Alan Brandwein is charged with the following fees and costs:

Counterclaim Filing Fee	= \$ 175.00
Forum Fees	= \$ 2,250.00
Total Fees	= \$ 2,425.00
Less payments	= \$( 0.00)
<b>Balance Due NASD Dispute Resolution, Inc.</b>	<b>= \$ 2,425.00</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**

*Susan B. Gans-Smith, Esq.*  
*Neil S. Jasper*  
*Stephen Brixey, Jr.*

*Public, Presiding Chair*  
*Public Arbitrator*  
*Non-Public Arbitrator*

**Concurring Arbitrators' Signatures**

  
Susan B. Gans-Smith, Esq.  
Chair, Public Arbitrator

5-6-02  
Signature Date

\_\_\_\_\_  
Neil S. Jasper  
Public Arbitrator

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

\_\_\_\_\_  
Stephen Brixey, Jr.  
Non-Public Arbitrator

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

5-6-02  
Date of Service

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*Stephen Brixey, Jr.*

*Non-Public Arbitrator*

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5/6/02  
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Stephen Brixey, Jr.  
Non-Public Arbitrator

Signature Date

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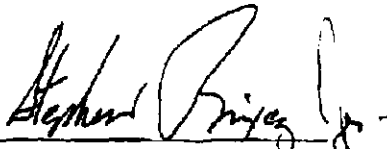
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Susan B. Gans-Smith, Esq.  
Chair, Public Arbitrator

Signature Date

Neil S. Jasper  
Public Arbitrator

Signature Date

  
Stephen Brixey, Jr.  
Non-Public Arbitrator

May 6, 2002  
Signature Date

May 6, 2002  
Date of Service