

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

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In the Matter of the Arbitration Between:

Kirlin Securities, Inc. (Claimant) v. John M. Lee (Respondent)

Case Number: 03-02226

Hearing Site: New York, New York

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Nature of the Dispute: Member vs. Associated Person.

**REPRESENTATION OF PARTIES**

Claimant Kirlin Securities, Inc. ("Kirlin") hereinafter referred to as "Claimant": Barry M. Bordetsky, Esq., Kirlin Securities, Inc., Syosset, NY.

Respondent John M. Lee, ("Lee") hereinafter referred to as "Respondent": Saam Jalayer, Esq., Steven E. Losquadro, Attorney at Law, Rocky Point, NY.

**CASE INFORMATION**

Statement of Claim filed on or about: March 26, 2003.

Claimant signed the Uniform Submission Agreement: March 26, 2003.

Statement of Answer filed by Respondent on or about: May 19, 2003.

Respondent signed the Uniform Submission Agreement: May 20, 2003.

**CASE SUMMARY**

Claimant asserted the following causes of action: failure to repay monies owed pursuant to the terms of the promissory note.

Unless specifically admitted in his Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

**RELIEF REQUESTED**

Claimant requested the principal amount of the promissory note in the amount of \$20,000.00; plus interest, costs, attorneys' fees, and such other relief as the Panel deems fair and equitable.

Respondent requested that the claim by Claimant be dismissed and for such other further relief which the Arbitrator deems proper.

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

Claimant made a motion to preclude the Respondent from calling any witnesses or relying on documents. After due consideration, the Arbitrator denied said motion, but limited the Respondent to himself as the witness.

### **AWARD**

After considering the pleadings, and the testimony and evidence presented at the hearing, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent is liable for and shall pay to the Claimant compensatory damages in the amount of \$22,731.82, plus interest at the rate of 18% per the promissory note from March 7, 2003 until the date the award is paid.
2. Respondent is liable for and shall pay to the Claimant attorneys' fees in the amount of \$5,682.96 pursuant to the terms of the promissory note and the December 3, 2002 employment contract.
3. Respondent is liable for and shall pay to the Claimant the sum of \$750.00, to reimburse Claimant for the filing fee previously paid 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	= \$750.00
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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, Kirlin Securities, Inc. is a party.

Member surcharge	= \$425.00
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#### **Forum Fees and Assessments**

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

One (1) Pre-hearing session with a single arbitrator @ \$450.00 = \$ 450.00  
Pre-hearing conference: October 10, 2003 1 session

Two (2) Hearing sessions @ \$450.00 = \$ 900.00

Hearing Date: December 9, 2003 2 sessions

Total Forum Fees = \$1,350.00

1. The Arbitrator has assessed \$1,350.00 of the forum fees against Respondent.

**Administrative Costs**

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

1. Claimant requested photocopies = \$4.00

**Fee Summary**

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 750.00
Member Fees	= \$ 425.00
Administrative Costs	= \$ 4.00
Total Fees	= \$1,179.00
Less payments	= \$2,200.00
Refund Due	= \$1,021.00

*As stated in the "Award" section above, Respondent is liable for and shall reimburse Claimant for the \$750.00 filing fee.*

2. Respondent is solely liable for:

Forum Fees	= \$1,350.00
Total Fees	= \$1,350.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$1,350.00

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

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**ARBITRATOR**

Jeffrey Steinberg

- Non-Public Arbitrator, Presiding Chair

**Concurring Arbitrators' Signature**

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.

  
Jeffrey Steinberg  
Non-Public Arbitrator, Presiding Chairperson

12-18-03  
Signature Date

December 22, 2003

Date of Service (For NASD Dispute Resolution use only)