

**AWARD**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between

Claimant  
Meir Smith

v.

03-02590  
Minneapolis, Minnesota

Respondent  
Workman Securities Corporation

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Nature of Dispute: Associated Person v. Member

**REPRESENTATION OF PARTIES**

Meir Smith ("Claimant") was represented by Richard Cabrera, Esq., Minneapolis, Minnesota.

Workman Securities Corporation ("Respondent") was represented by Benjamin R. Skjold, Esq., of Hellmuth & Johnson, PLLC, Minneapolis, Minnesota.

**CASE INFORMATION**

The Statement of Claim was filed on or about April 10, 2003. The Submission Agreement of Claimant was signed on or about March 27, 2003.

The Statement of Answer was filed by Respondent Workman Securities Corporation on or about June 11, 2003. The Submission Agreement of Respondent Workman Securities Corporation was signed on or about June 9, 2003.

A Motion to Dismiss was filed by Respondent Workman Securities Corporation on or about June 9, 2004.

**CASE SUMMARY**

Claimant asserted causes of action including the following: breach of employment contract, wrongful termination, failure to pay compensation, libel on his Form U-5 and slander. The causes of action related to Claimant's allegation that Respondent deliberately breached its Registered Representative Contract with Claimant by making inaccurate and untrue statement as to his departure from Workman Securities Corporation on his Form U-5. Claimant also alleged that due to these untrue and libelous statements contained on his Form U-5, he has suffered a consequential loss of employment opportunities and loss of income.

Respondent denied the allegations set forth in the Statement of Claim and asserted affirmative defenses including the following: Claimant failed to state a claim upon which relief can be granted; Claimant is barred, in whole or in part, by the doctrines of estoppel, laches, unclean hands and waiver; Claimant's conduct was the cause or partially the cause of any of his alleged damages; and Claimant's claims are barred in whole or in part by his failure to mitigate his damages.

### **RELIEF REQUESTED**

Claimant requested an award in the amount of \$304,356 in compensatory damages. In addition, Claimant requested punitive damages of \$500,000, attorneys' fees, interest, costs and any other relief that the panel deemed just and equitable.

Respondent requested that the claims asserted against it be denied in their entirety and that it be awarded its costs and attorneys' fees.

### **OTHER ISSUES CONSIDERED & DECIDED**

At the start of the arbitration hearing both sides orally addressed Respondent's Motion to Dismiss. The Panel denied Respondent's Motion to Dismiss.

After Claimant's case-in-chief, Respondent orally moved for a directed verdict. The panel deferred its ruling pending Respondent's presentation of evidence. After Respondent presented a rebuttal witness, the panel granted Respondent's request for a directed verdict and dismissed this claim with prejudice.

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. In either case, the parties have agreed to receive conformed copies of the award while the originals remain on file with NASD Dispute Resolution ("NASD").

### **AWARD**

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

1. Claimant's claims, each and all, are hereby denied and dismissed with prejudice in their entirety;
2. To the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto, including punitive damages, are denied with prejudice; and

3. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys' fees.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

NASD Dispute Resolution will retain the non-refundable filing fee for each claim:

Initial claim filing fee = \$ 375

#### **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 Workman Securities Corporation.

Member surcharge = \$ 2,250

Pre-hearing process fee = \$ 750

Hearing process fee = \$ 4,000

#### **Forum Fees and Assessments**

The arbitration 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 = \$ 1,200

Pre-hearing conference: 04/27/2004 1 session

Four (4) Hearing sessions with Panel x \$ 1,200 = \$ 4,800

Hearing Dates: 07/13/2004 2 sessions

07/14/2004 2 sessions

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Total Forum Fees = \$ 6,000

The arbitration panel has assessed \$ 3,000 of the forum fees to Meir Smith.

The arbitration panel has assessed \$ 3,000 of the forum fees to Workman Securities Corporation.

**Fee Summary**

Claimant, Meir Smith is liable for:

Initial Filing Fee	= \$ 375
<u>Forum Fees</u>	<u>= \$ 3,000</u>
Total Fees	= \$ 3,375
<u>Less payments</u>	<u>= \$ 1,575</u>
Balance Due NASD Dispute Resolution	= \$ 1,800

Respondent, Workman Securities Corporation, is liable for:

Member Fees	= \$ 7,000
<u>Forum Fees</u>	<u>= \$ 3,000</u>
Total Fees	= \$ 10,000
<u>Less payments</u>	<u>= \$ 7,000</u>
Balance Due NASD Dispute Resolution	= \$ 3,000

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

**ARBITRATION PANEL**

Lavon C. Phillips, Esq. - Public Arbitrator, Presiding Chair  
Robert S. Burk, Esq. - Public Arbitrator  
Joan M. Schroeder, Esq. - Non-Public Arbitrator

**Concurring Arbitrators:**

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Lavon C. Phillips, Esq.  
Public Arbitrator, Presiding Chair

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Signature Date

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Robert S. Burk, Esq.  
Public Arbitrator

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Signature Date

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Joan M. Schroeder, Esq.  
Non-Public Arbitrator

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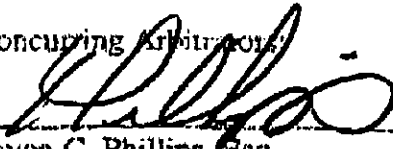
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7/22/04  
Date of Service (NASD use only)

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