

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Claimant

First Union Securities, Inc.

v.

03-04622

Denver, Colorado

Respondent

Theodore McMorrough

Nature of Dispute: Member v. Associated Person

REPRESENTATION OF PARTIES

First Union Securities, Inc. ("**Claimant**") was represented by Renan I. Sugarman, Esq., Chicago, Illinois.

Theodore McMorrough ("**Respondent**") was represented by Stuart N. Bennett, Esq., of Lindquist & Vennum, P.L.L.P., Denver, Colorado, until he filed a Notice of Withdrawal on or about May 28, 2004. Thereafter, Respondent appeared pro se.

CASE INFORMATION

The Statement of Claim was filed on or about June 25, 2003. The Submission Agreement of Claimant was signed by Doug Callaway, Vice President and General Counsel of First Union Securities, on or about May 29, 2003.

The Statement of Answer was filed by Respondent Theodore McMorrough on or about August 19, 2003. The Submission Agreement of Respondent Theodore McMorrough was signed on or about August 19, 2003.

CASE SUMMARY

Claimant asserted the following cause of action: breach of a promissory note. The cause of action related to Claimant's allegation that Respondent breach a promissory note dated August 2, 2001, hereinafter referred to as the "Note." Claimant alleged that Respondent failed to honor the terms of the Note after his departure on January 9, 2002.

Respondent denied the allegations set forth in the Statement of Claim and asserted various defenses.

RELIEF REQUESTED

Claimant requested an award in the amount of \$80,000 plus, an overdraw balance of \$5,270.17, interest accrued during the term of the Note at the contract rate of 5.5%, costs, attorneys' fees and any other relief the panel deemed just and equitable.

Respondent requested that the claims asserted against him be denied in their entirety.

OTHER ISSUES CONSIDERED & 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. 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. Respondent, Theodore McMorrough, is liable for and shall pay to Claimant, First Union Securities, Inc., the sum of Eighty Five Thousand Two Hundred Seventy Dollars and Seventeen Cents (\$85,270.17) in damages under the Note and the overdraw balance;
2. Respondent, Theodore McMorrough, is liable for and shall pay to Claimant, First Union Securities, Inc., interest in the amount of Fourteen Thousand Six Hundred Sixty Four Dollars and Eighty Five Cents (\$14,664.85) pursuant to the terms of the Note;
3. Respondent, Theodore McMorrough, is liable for and shall pay to Claimant, First Union Securities, Inc., arbitration costs in the amount of Eight Thousand Three Hundred Dollars and No Cents (\$8,300.00) pursuant to the terms of the Note; and
4. To the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief, including attorneys' fees, by any party hereto, are denied with prejudice.

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 = \$ 1,000

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 First Union Securities, Inc.

Member surcharge = \$ 1,100
Pre-hearing process fee = \$ 750
Hearing process fee = \$ 1,700

Adjournment Fees

Adjournments granted during these proceedings:

October 21-23, 1997 - Adjournment requested by Respondent, Theodore McMorrough

Fee Waived by the Panel = \$ 750

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 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 sessions with Panel x \$ 750 = \$ 1,500

Pre-hearing conferences:	05/17/2004	1 session
	10/22/2004	1 session

One (1) Hearing session with Panel x \$ 750 = \$ 750

Hearing Dates:	12/30/2004	1 session
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Total Forum Fees = \$ 2,250

The Arbitration Panel has assessed \$2,250 of the forum fees to Theodore McMorrough.

FEE SUMMARY

Claimant, First Union Securities, Inc., is liable for:

Initial Filing Fee	= \$ 1,000
<u>Member Fees</u>	<u>= \$ 3,550</u>
Total Fees	= \$ 4,550
<u>Less payments</u>	<u>= \$ 5,300</u>
Balance Refunded By NASD Dispute Resolution	= \$ 750

Respondent, Theodore McMorrough, is liable for:

<u>Forum Fees</u>	<u>= \$ 2,250</u>
Total Fees	= \$ 2,250
<u>Less payments</u>	<u>= \$ 0</u>
Balance Due NASD Dispute Resolution	= \$ 2,250

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

Cletus E. Byrne, Jr. - Non-Public Arbitrator, Presiding Chair
Jonathan H. Larson, Esq. - Non-Public Arbitrator
Harold C. Jones- Non-Public Arbitrator

Concurring Arbitrators:

Cletus E. Byrne, Jr.
Non-Public Arbitrator, Presiding Chair

Signature Date

Jonathan H. Larson, Esq.
Non-Public Arbitrator

Signature Date

Harold C. Jones
Non-Public Arbitrator

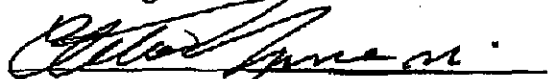
Signature Date

12/21/04
Date of Service (NASD use only)

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