

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

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In the Matter of the Arbitration Between:

InterSecurities, Inc. (Claimant) v. Dennis W. Russell (Respondent)

Case Number: 04-02179

Hearing Site: Cincinnati, Ohio

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Nature of the Dispute: Member vs. Associated Person.

**REPRESENTATION OF PARTIES**

Claimant InterSecurities, Inc. ("Claimant"): James F. Koehler, Esq., Gallagher, Sharp, Fulton & Norman, Cleveland, OH.

Respondent Dennis W. Russell ("Respondent") appeared *pro se*.

**CASE INFORMATION**

Statement of Claim filed on or about: March 29, 2004.

Claimant signed the Uniform Submission Agreement: March 9, 2004.

Statement of Answer filed by Respondent on or about: July 6, 2004

Respondent, (Name), signed the Uniform Submission Agreement: July 6, 2004.

**CASE SUMMARY**

Claimant asserted the following causes of action: breach of contract by selling unregistered and unapproved securities; and breach of fiduciary duty.

Unless specifically admitted in his Answer, Respondent denied the allegations made in the Statement of Claim.

**RELIEF REQUESTED**

Claimant requested actual damages in the amount of \$184,714.37, together with prejudgment interest, attorneys' fees, costs, punitive damages, and such other relief as is deemed necessary and proper.

**OTHER ISSUES CONSIDERED AND DECIDED**

Arbitrator K. Steve Kimball did not appear at the hearing in this matter. In accordance with Rule 10313 of the Code, the parties agreed to proceed with the remaining two arbitrators.

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.

### **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 liable for and shall pay to Claimant compensatory damages in the amount of \$174,214.37 plus interest at the legal rate accruing from the date of this award until the award is paid.
2. Respondent is liable for and shall pay to Claimant attorneys' fees in the amount of \$10,000.00. The Panel awarded attorneys' fees in accordance with the contract identified as Claimant's Exhibit 1.
3. Respondent is liable for and shall pay Claimant \$1000.00 to reimburse Claimant for the filing fee previously paid to NASD Dispute Resolution.
4. Any and all relief not specifically addressed herein, including punitive damages, 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	= \$1000.00
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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, InterSecurities, Inc. is a party.

Member surcharge	= \$1700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$2750.00

**Forum Fees and Assessments**

The Panel has assessed forum fees for each session conducted. A 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 @ \$1,125.00	= \$1,125.00
Pre-hearing conference: August 26, 2004 1 session	
Two (2) Hearing sessions @ \$1,125.00	= \$2,250.00
Hearing Date(s): Date 2 sessions	
Date 1 session	
Total Forum Fees	= \$3,375.00

1. The Panel has assessed \$3,375.00 of the forum fees against Respondent.

**Fee Summary**

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 1,000.00
Member Fees	= \$ 5,200.00
Total Fees	= \$ 6,200.00
Less payments	= \$ 7,325.00
Refund Due Claimant	= \$ 1,125.00

2. Respondent is solely liable for:

Forum Fees	= \$ 3,375.00
Total Fees	= \$ 3,375.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 3,375.00

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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**ARBITRATION PANEL**

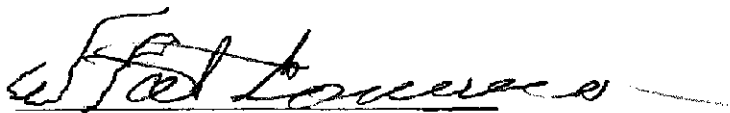
Benjamin B. Segel, Esq.	-	Public Arbitrator, Presiding Chair
W. Pat Conners	-	Non-Public Arbitrator

**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 in which is my award.

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Benjamin B. Segel, Esq.  
Public Arbitrator, Presiding Chairperson

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

  
\_\_\_\_\_  
W. Pat Conners  
Non-Public Arbitrator

12-20-04  
Signature Date

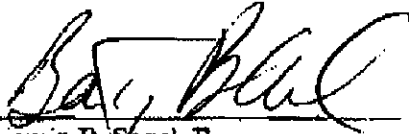
December 28, 2004  
Date of Service (For NASD Dispute Resolution use only)

**ARBITRATION PANEL**

Benjamin B. Segel, Esq.	-	Public Arbitrator, Presiding Chair
W. Pat Connors	-	Non-Public 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 is which is my award.



Benjamin B. Segel, Esq.  
Public Arbitrator, Presiding Chairperson

<sup>285</sup>  
12/17/04  
Signature Date

\_\_\_\_\_  
W. Pat Connors  
Non-Public Arbitrator

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

December 28, 2004  
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