

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

9001235

In the Matter of the Arbitration Between

Dean Witter Reynolds, Inc.

Claimant

vs.

J. Ronald Clark

Respondent

AWARD

CASE NO. 89-00975

SUMMARY OF ISSUES

This case was filed on March 30, 1989. Claimant alleged that Respondent breached the terms of an account executive credit facility agreement and promissory note dated February 8, 1988, by failing to repay the outstanding principal when his employment with Dean Witter Reynolds, Inc. was terminated on August 4, 1988. Respondent alleged that the contract was void as against public policy, and also that it was unconscionable.

DAMAGES AND RELIEF REQUESTED

Claimant requested damages of \$53,826.00, which amount was reduced at hearing to \$47,846.00 after giving Respondent credit for the six months he was employed by Dean Witter Reynolds, Inc., plus interest at the rate of 10% from August 4, 1988 through date of an award, and costs.

Respondent requested dismissal of all claims, and an award to him of costs of arbitration and attorneys' fees.

DAMAGES AND RELIEF AWARDED

On December 15, 1989 in Honolulu, Hawaii, the undersigned arbitrators heard the controversy in two sessions between the parties as set forth in submissions to arbitration signed by Claimant on March 16, 1989 and by Respondent on May 18, 1989. The arbitration panel, having considered the pleadings, the testimony, the evidence presented at the hearing, and the post-hearing submissions, has determined in full and final resolution of the issues submitted for determination as follows:

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1. Respondent is liable for and shall pay to Claimant the amount of Forty-Four Thousand, Eight Hundred Fifty-Five Dollars and Zero Cents (\$44,855.00). The claim for interest is dismissed.

2. The parties shall each bear their respective costs including attorneys' fees.

3. Pursuant to Section 43 of the National Association of Securities Dealers, Inc. ("NASD") Code of Arbitration Procedure, the NASD shall retain the \$500.00 filing fee previously deposited by the Claimant. Further, Claimant is assessed forum fees in the amount of \$500.00 payable to the National Association of Securities Dealers, Inc. through its representative.

OTHER ISSUES

At the hearing, counsel for both parties stipulated to receiving an award signed by the arbitrators in counterpart. Counsel also stipulated to waiving the requirement that the arbitrators' signatures be notarized.

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