



N.A.S.D. FINAL ORDER

Arbitration

NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of  
Securities Dealers, Inc.  
NASD Financial Center  
33 Whitehall Street  
New York, New York 10004

In the Matter of the Arbitration Between

Name of Claimant

Russell S. Burnside

vs

Case #  
89-01538

Name of Respondent

First American Capital Resources, Inc.  
D. R. Dwyer & Company  
Mark Anthony  
Carl Bitler  
John Hurley  
William Stirlen  
Matt Harrington

ORDER

Prior to the hearing, Claimant settled with Respondent, Mark Anthony, and proceeded with his claims against the Respondents, First American Capital Resources, Inc. At the conclusion of the hearing which was held on April 04, 1990, and which consisted of two hearing sessions, Claimant was directed to produce documents to Respondents' attorney which would enable said attorney to fully cross-examine Claimant on the next hearing date. Prior to the adjourned hearing date, Claimant advised the NASD that he wished to dismiss the claims against said Respondents. Respondents, by letter dated May 23, 1990, requested that a judgment be rendered in their favor instead of allowing Claimant to dismiss the claims based upon the fact that Claimant failed to produce the documents as ordered by this Arbitrator. Respondents also requested that fees and cost be assessed against Claimant. Claimant by letter dated June 19, 1990, contended that he has a right to dismiss his claims and that Respondents requests were unwarranted.


After considering the submissions of the parties, Respondents' motion to dismiss is granted to the extent that the evidence presented by Claimant in support of his claim is stricken. Respondents' request for attorney's fees is denied, without prejudice to renew that portion of the motion should Respondent wish to submit legal briefs on this matter within thirty (30) days.

Pursuant to Section 43 of the Code of Arbitration Procedure, Claimant is assessed forum costs in the amount of \$200.00. Therefore, the NASD shall retain the \$200.00 filing fee previously deposited by the Claimant.

Respondents, First American Capital Resources, Inc. and David G. Furtransky,  
are assessed forum fees in the amount of \$200.00.

All fees shall be made payable to the NASD.

Arbitrator Signature



Bennett J. Wasserman, Esq.

DATED BY NASD  
FEBRUARY 20, 1991