

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

: In the Matter of the Arbitration Between :
: :
: Gary Kovach :
: Claimant : CASE# 90-02329
: vs. :
: :
: Roney & Co. :
: Respondent :

Heard before:

Donald A. Antrim, Esq.	Industry Arbitrator
James A. Francis, Esq.	Industry Arbitrator
Robert A. Greenberg	Industry Arbitrator

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on August 23, 1990 Claimant Gary Kovach alleged the Respondent Roney & Co. made misrepresentations to the Claimant which induced him to leave his prior employment and the Respondent Roney & Co. materially breached the Employment Agreement entered into between the Claimant and the Respondent by preventing the Claimant from fully managing the Cleveland, Ohio office, by its failure to open the second "Independence" office or any other office of the company; by its failure to provide the financial opportunities to the Claimant which had been represented to him at the time of his original meetings; by its failure to provide the support necessary to overcome compliance problems in the Cleveland, Ohio office, and by demoting and ultimately discharging the Respondent in bad faith and without any just or reasonable cause and the Respondent put the Claimant's securities licenses at substantial risk by refusing to comply with all applicable rules and regulations. The Claimant further alleged the Respondent required a capital contribution from the Claimant at the time he became a partner of Roney & Co. and Roney & Co. has failed and refused to return to the Claimant his entire capital contribution and has failed to compensate the Claimant for his efforts in recruiting at least four qualified brokers from other firms.

The Respondent Roney & Co. maintained the Claimant was introduced to Roney & Co. through a headhunter and was not "lured" or "induced" to leave his prior employment and it made no representations or "financial inducements" to Claimant. Respondent further alleged that the document referred to by the Claimant as an Employment Agreement is an "understanding" between the parties and in no way guaranteed the Claimant any perpetual position or status in the firm; nor did it in any way limit the

Respondent's right to manage the firm and to terminate its relationship with Claimant which it did because of Claimant's overtly hostile and negative attitude and because his personal production failed to achieve necessary levels. Respondent further maintained the Claimant was given full opportunity to manage but was removed as manager of the branch because he was ineffective and counter-productive and did not meet expectations and alienated or negatively impacted the performance of staff and other brokers and lacked the skills to perform the job. Respondent further maintained there was never sufficient production demonstrated by the Claimant to meet the criterion for establishing the "Independence" office and the Claimant is not presently owed any of his capital contribution by Roney & Co. and the matter relating to the withholding of funds as a potential liability for an Internal Revenue Service matter is expected to be settled in the future. Respondent further denied that the Claimant is entitled to any sums of money for recruiting efforts and denied any allegations that the Claimant has suffered financially by reason of any unlawful or improper acts of Respondent and it made every effort to assure the continuity of Claimant's relationship with his customers upon his departure from the firm.

RELIEF REQUESTED

Claimant requested damages of \$432,000.00. Respondent requested dismissal of claim, an assessment of all forum fees against the Claimant and attorneys' fees.

AWARD


On May 21 and 22, 1991 and June 11, 1991 the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant Gary Kovach on August 17, 1990 and signed by Respondent Roney & Co. on October 4, 1990. The hearing was conducted in Columbus, OH and consisted of six (6) hearing sessions. The Claimant was represented by Dean M. Rooney, Esq. and John A. Huettnner, Esq. of the law firm of Honohan, Harwood, Chernett & Wasserman, Esqs. and the Respondent was represented by Robert N. Rapp, Esq. of the law firm of Calfee, Halter & Griswald. The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has determined in full and final resolution of the issues submitted for determination as follows:

1. The Respondent Roney & Co. be and hereby is liable and shall pay to the Claimant Gary Kovach the sum of Seventy Seven Thousand Five Hundred Dollars and No Cents (\$77,500.00).
2. The parties shall each bear their respective costs, including attorneys' fees.

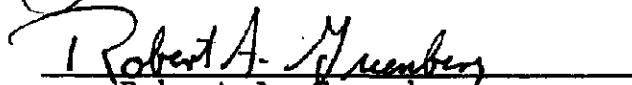
FORUM FEES

Pursuant to Section 44 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$1,250.00 filing fee previously deposited by the Claimant and the Claimant be and hereby is liable and shall pay to the National Association of Securities Dealers, Inc. the sum of \$1,250.00 to represent forum fees. In addition, the Respondent Roney & Co. be and hereby is liable and shall pay to the National Association of Securities Dealers, Inc. the sum of \$2,500.00 to represent forum fees.

ARBITRATORS SIGNATURES


Donald A. Antrim, Esq.


James A. Francis, Esq.


Robert A. Greenberg

Executed on
~~Date of Decision:~~ June 11, 1991

Date of Decision: July 11, 1991