

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Morris L. Durden, Jr.

90-03067

Name of Respondent(s)

Phillip Huss

Heard before:

Name

Public/Industry

Ellwood F. Oakley, III, Esq.

Public Arbitrator

Church Yearley

Public Arbitrator

Morris R. Copeland

Industry Arbitrator

CASE SUMMARY

This matter was initiated by a Statement of Claim filed with the National Association of Securities Dealers, Inc. ("NASD") on September 29, 1990. Claimant alleged that Respondent had breached the terms of a settlement agreement between the parties when the Respondent failed to make payments as required by the terms of the settlement. Respondent did not file a Statement of Answer to the Statement of Claim.

RELIEF REQUESTED

Claimant requested damages of \$18,291.66 plus costs and reasonable attorneys' fees. Respondent did not file a Statement of Answer to the Statement of Claim.

AWARD

On February 26, 1991 in Atlanta, Georgia during a hearing lasting one session session, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant Morris Durden, Jr. on March 22, 1989 and not signed by Respondent Philip Huss as required by Sections 12 and 25 of the Code of Arbitration Procedure. The panel finds that Respondent Philip Huss did sign the settlement agreement with the Claimant dated January 25, 1990. Respondent Philip Huss did not file

a Statement of Answer to the Statement of Claim dated September 24, 1990 submitted by the Claimant requesting enforcement of the Settlement Agreement despite due notice being given. Respondent Philip Huss failed to appear at the hearing in Atlanta, Georgia on February 26, 1991 despite due notice being given. After considering the pleadings, the testimony, and the evidence presented at the hearing, the arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

(1) The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award be entered. In either case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD.

(2) Respondent Philip Huss is liable and shall pay to the Claimant Morris L. Durden the sum of Nineteen Thousand Sixty Three Dollars and Twenty Cents (\$19,063.20) plus interest at \$5.01 per day from the date of the Settlement Agreement through the date of payment of this award.

(3) Respondent Philip Huss is liable for and shall pay to the Claimant Morris L. Durden attorneys fees of \$2,250.00. This award of attorneys fees is made pursuant to the terms of the Settlement Agreement dated January 25, 1990.

(4) Respondent Philip Huss is liable for and shall pay costs of \$250.00 to the Claimant Morris L. Durden.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed:

(1) Respondent Philip Huss is assessed forum fees of \$400.00.

Fees are payable to the National Association of Securities Dealers, Inc.

Concurring Arbitrator(s) Signature

/s/ _____
Ellwood F. Oakley, III

/s/ _____
Church Yearley

/s/ _____
Morris R. Copeland

Dated: April 9, 1991