

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Tucker Anthony Incorporated

vs.

Case #  
92-01538

Name of Respondent

Murray Rosenberg

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**REPRESENTATION**

For Claimant: Tucker Anthony, Inc., ("Claimant") William T. Marshall, Jr., Esq. from the law firm of Sullivan & Marshall.

Respondent. Murray Rosenberg, ("Rosenberg") did not appear at the hearing.

**CASE INFORMATION**

Statement of Claim filed: May 1, 1992.

Claimant's Submission Agreement signed on: April 27, 1992.

Respondent did not file a Statement of Answer or execute a Submission Agreement.

**HEARING INFORMATION**

Hearing Date/Session: December 16, 1992 - One Session.

Hearing Location: NASD offices located at 260 Franklin Street, Boston, Massachusetts.

**CASE SUMMARY**

Claimant alleges that on or about July 9, 1986, Respondent opened a securities margin account

and executed a securities account agreement in connection with the opening of the account. Claimant alleges the agreement provided the Respondent would pay any outstanding debit balance in his account plus interest at the broker call rate plus 1 3/4% on amounts up to \$34,900.00.

Claimant also alleges that in October, 1987, Respondent was notified of a margin maintenance call on his account which he failed to meet. Claimant states that it consequently liquidated Respondent's account in accordance with margin rules and regulations which resulted in an unsecured debit balance. Claimant further alleges that Respondent then entered into an agreement to repay the debit balance of \$34,158.79. Claimant states that under the agreement Respondent was to make a good faith payment of \$4,158.79 on January 1, 1988 and failed to do so.

Claimant further states that it served a Notice of Intent to arbitrate and Respondent has not objected to same.

Respondent did not appear or put in a defense on this claim.

#### **RELIEF REQUESTED**

Claimant requests an award of \$51,739.39 inclusive of accrued interest together with costs and disbursement of this proceeding.

#### **OTHER ISSUES CONSIDERED & DECIDED**

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

Respondent did not attend the hearing in this matter. Based upon the documents submitted at the hearing regarding notices sent to the parties and pursuant to Sections 25 and 29 of the Code of Arbitration Procedure, this panel decided that jurisdiction exists, that notice was given and proceeded with the hearing in Respondent's absence.

#### **AWARD**

After considering the pleadings, the testimony and the evidence presented at the hearing the undersigned arbitrator has decided in full and final resolution of the issues submitted for deter

mination as follows:

1. Respondent is hereby liable and shall pay Claimant **THIRTY SEVEN THOUSAND THREE HUNDRED AND THIRTEEN DOLLARS AND THIRTY SIX CENTS (\$37,313.36)**.
2. All other claim for relief is denied.

**FORUM FEES**

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed against Claimant.


\$500.00 - Non-refundable filing fee.  
\$600.00 - One Hearing Session.

Claimant paid \$1,100.00 and Respondent shall reimburse Claimant to satisfy the forum fees assessed.

**ARBITRATION PANEL**

Susan F. Drogin, Esq.	-	Public Chairperson
Matthew R. Gilson, Esq.	-	Public Panelist
Robert Masiello	-	Industry Panelist

Concurring Arbitrator's Signature  
Name

  
Susan F. Drogin, Esq.

Date of Decision: January 4, 1993

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