

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of Arbitration Between

Name of Claimant

John R. Lindung

vs.

Case # 92-03387

Name of Respondent

Alex Brown & Sons, Inc.

REPRESENTATION

For Claimant ("Claimant"): Stephan R. Tully, Esq. of the law firm of Siegel, Tully & Turner.

For Respondent Alex Brown & Sons, Inc. ("Respondent"): Daniel E. McIntyre, Assistant General Counsel at Alex Brown & Sons, Inc.

CASE INFORMATION

Statement of Claim filed: October 6, 1992.

Claimant's Submission Agreement signed on: October 5, 1992.

Statement of Answer filed by Respondent on: January 18, 1993.

Respondent's Submission Agreement signed on: February 10, 1993.

HEARING INFORMATION

Pre-hearing Conference:

January 10, 1994 - 1 session

Hearing Dates/Sessions:

January 13, 1994 - 2 sessions

January 14, 1994 - 1 session

Hearing Location: Omni Hotel, Baltimore, MD

CASE SUMMARY

Claimant in his Statement of Claim contended that Respondent (his former employer) was obligated to make certain payments to Claimant arising out of trades executed and settled during the term of employment, trades executed during employment but settled after termination, a minimum compensation arrangement for 1989, a 1989 "Principal Bonus," a finder's fee in connection with investment banking transaction, medical and insurance deductions improperly taken, failure to pay an agreed-upon adjustment of \$750.00, delay in transmitting proceeds of retirement accounts, and emotional distress.

Respondent in its Answer denied any obligation to pay further sums to Claimant due to the fact that he voluntarily terminated his employment before such sums became payable, and based upon the facts and circumstances of Claimant's resignation. Respondent further denied that any minimum compensation arrangement existed, contended that any bonuses or finder's fees or "trails" were purely discretionary, and argued that Claimant's calculations were incorrect.

RELIEF REQUESTED

Claimant requested compensation under the alleged minimum compensation arrangement of \$53,251.01, plus \$405.95 in improper medical/insurance deductions, plus \$58,000.00 as a finder's fee, plus an unspecified amount as a "Principal's Bonus" for 1989, plus \$1,321.88 for trades executed and settled prior to termination, plus \$750.00 for an agreed-upon adjustment to pay-out rates, plus \$4,258.18 for trades settled after termination, plus interest on the \$6,330.06 at 8% to date of award, plus \$3,541.32 for loss of use of retirement funds for 67 days, plus \$500,000 in punitive damages, plus legal fees incurred by Claimant.

Respondent requested that all claims be dismissed.

OTHER ISSUES CONSIDERED & DECIDED

The parties have 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, the parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD.

At the hearing, Claimant modified, clarified and withdrew certain claims. Claimant withdrew his claims set forth in Paragraph 10 of the Statement of Claim regarding payroll deductions, defined his Principal's Bonus claim as \$10,000.00, acknowledged that any amounts awarded for trade commissions in 1989 would reduce pro tanto his claim for minimum compensation, amended his claim for delay in the transmission of retirement funds from 67 days to 21 days, and withdrew his claim for punitive damages.

Claimant also raised a new claim under Maryland's Wage Payment and Collection Law for three times the amount of wages improperly withheld. Respondent objected to this claim under Section 25 of the Code of Arbitration Procedure. Pursuant to Section 39(b) of the Code of Arbitration Procedure, the Panel permitted Claimant's filing a claim under Maryland's Wage Payment and Collection Law.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned Arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent's objection to Claimant's assertion of triple recovery under Md. Labor and Employment Code, 3-507, is overruled as moot in light of the Panel's ruling on the merits set forth below.
2. Respondent shall pay to Claimant, in consideration of Claimant's claims set forth in Paragraph 9 of the Statement of Claim, the sum of \$33,000.00.
3. Respondent shall pay to Claimant the additional sum of \$750.00 in consideration of the claim set forth in Paragraph 14 of the Statement of Claim. This amount is exclusive of interest.
4. Respondent shall pay to Claimant the additional sum of \$17,400.00 in consideration of the claim for a finder's fee set forth in Paragraph 11 of the Statement of Claim. This amount represents Claimant's 60% partnership share of such finder's fee. The Panel has denied Claimant's derivative claim on behalf of his "Partnership" for the remaining 40% of the finder's fee.
5. Claimant's claims for a "Principal Bonus" are denied.
6. Claimant's claims for pre-termination settled trades as set forth in Paragraph 13 of the Statement of Claim are deemed to be included in the amount awarded in Paragraph 2 of this Award and are therefore denied.

7. Respondent shall pay to Claimant the additional sum of \$4,258.18 in consideration of the claims set forth in Paragraph 15 of the Statement of Claim.
8. Claimant's claims for delay in transmitting retirement funds are denied.
9. Claimant's claims for triple recovery is denied.
10. Claimant's claim for attorney's fees is denied.
11. Claimant's claim for pre-award interest is denied.
12. In summary, in full satisfaction of all of Claimant's claims, Respondent shall pay to Claimant the total sum of \$55,408.18; inclusive of interest. All other claims not specifically addressed herein are denied.

FORUM FEES

Pursuant to Section 44(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed.

$$(1 \text{ pre hearing conference} \times \$300) + (3 \text{ hearing session} \times \$1,000) = \$3,300$$

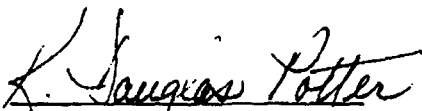
That forum fees shall be split equally between the Claimant and the Respondent so that the Claimant is assessed forum fees in the amount of \$1,650. Claimant, however, is entitled to offset this amount with his hearing session deposit of \$1,000 previously deposited, so that the amount due from the Claimant is \$650. Respondent is assessed forum fees in the amount of \$1,650.


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

ARBITRATION PANEL

Name

Public/Industry


K. Douglas Potter


Industry Arbitrator

NASD Date of Decision February 15, 1994

7. Respondent shall pay to Claimant the additional sum of \$4,258.18 in consideration of the claims set forth in Paragraph 15 of the Statement of Claim.
8. Claimant's claims for delay in transmitting retirement funds are denied.
9. Claimant's claims for triple recovery is denied.
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M. Teri Ranieri


Industry Arbitrator

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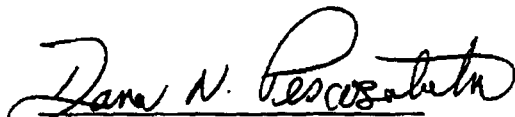
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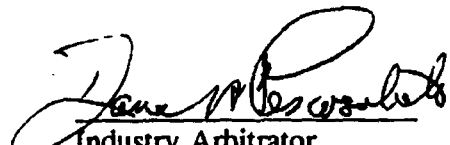
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ARBITRATION PANEL

Name

Public/Industry


Dana N. Pescosolido, Esq.

 2/7/94
Industry Arbitrator

NASD Date of Decision February 15, 1994