

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Douglas Taylor

vs.

Case #
92-04370

Name of Respondent

Neuberger & Berman

REPRESENTATION

For Claimant: Douglas Taylor ("Claimant"), William Pauley, Esq., from the law firm of Snitow & Pauley.

For Respondent: Neuberger & Berman ("Respondent") Eric J. Wallach, Esq. from the law firm of Roseman & Colin.

CASE INFORMATION

Statement of Claim was filed on December 30, 1992.

Claimant's Submission Agreement was signed on December 18, 1992.

Respondent's Statement of Answer was filed on March 11, 1993.

Respondent's Submission Agreement was signed on March 4, 1993.

HEARING INFORMATION

Hearing Dates/Sessions: October 28, 1993 - 2 sessions.
 November 18, 1993 - 2 sessions.
 November 19, 1993 - 2 sessions.
 December 13, 1993 - 2 sessions
 December 14, 1993 - 2 sessions.
 January 20, 1993 - 2 sessions.

Hearing Location: NASD offices located at 33 Whitehall Street, New York, NY.

CASE SUMMARY

Claimant alleges that in reliance upon Respondent's agreement to pay him a base salary of \$200,000.00 per year, plus an annual bonus, ten percent (10%) commission on management fees generated by any new client accounts which he brought to the Respondent firm, he joined the firm as a Senior Portfolio Manager on or about February 9, 1990. Claimant states that for the year ending 1991, he received a total salary of \$275,000.00 as follows: \$200,000 in base salary and a \$75,000 bonus. Claimant states that in addition Respondent contributed \$15,000 on Claimant's behalf to the firm's Employee's Profit Sharing Plan.

Claimant also alleges that the accounts he managed for one client outperformed those managed by other competing portfolio managers for that client and performed better than Respondent was able to do for the client in the past. Claimant further alleges that he brought in a significant new client who invested approximately \$100 million with Respondent. Claimant also alleges that Respondent was happy with his contribution to the firm that it offered to make Claimant a partner in June, 1992.

Claimant asserts three claims: (1) that Respondent without cause terminated his employment without prior notice and breached his contract; (2) that Respondent owes and has refused to pay Claimant commissions in amount of ten percent(10%) or \$15,000 based upon the fact that he brought new client to Respondent which generated approximately \$150,000 in management fees; that he was entitled to severance pay in accordance with Respondent's customary and usual practice and despite demands, Respondent has refused to pay him.

Respondent denies liability and denies some of the allegations. Respondent asserts five affirmative defenses.

Respondent maintains that Claimant was hired based upon his express representation that he was a team player and he would attract substantial business from client accounts he serviced at his former employer. Respondent also maintains that despite the fact that Claimant did not attract client accounts, he was paid a \$75,000 bonus as an inducement to make good on his representations. Respondent states that Claimant's performance was the lowest among the fixed income portfolio managers and that he was not a team player.

Respondent asserts five affirmative defenses. Respondent maintains that Claimant was an at-will employee who could be terminated at any time for any reason. Respondent further maintains that Claimant was terminated for unsatisfactory job performance. Respondent states that Claimant was not entitled to 10% commission on management fees because he was not primarily responsible for attracting new business to the firm. Respondent further states that severance pay was discretionary and Claimant was not entitled to receive on.

RELIEF REQUESTED

Claimant requests an award in the amount of \$218,300. together with costs of the arbitration and such other and further relief as the arbitrators deem just and proper.

Respondent requests that the panel deny the claim in its entirety, charge costs of the arbitration to Claimant and award Respondents such other and further relief as the panel deems just and proper.

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 determination as follows:

1. The First Claim is denied in its entirety.
2. Respondent is hereby liable to the Claimant on the second Claim in the amount of **EIGHT THOUSAND ONE HUNDRED AND SEVENTEEN DOLLARS (\$8,117.00)** as per stipulation agreed to by and between the parties at the hearing.
3. Respondent is further liable to Claimant on the Third Claim in the amount of **THREE THOUSAND THREE HUNDRED DOLLARS (\$3,300.00)** as per stipulation agreed to by an between the parties at the hearing.
4. Each party shall pay its own attorneys' fees.
5. The claim for costs is denied.

FORUM FEES

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

Non-refundable Filing Fee: \$500.00.

Hearing Session Fees: \$750.00 x 12 sessions = \$9,000.00.

Total Fees: \$9,500.00.

1. Claimant is assessed a \$500.00 non-refundable filing fee. Claimant is further assessed \$4,500.00 in hearing session fees. Claimant deposited \$1,250.00 and owes a balance of

\$3,250.00 and owes a balance of.

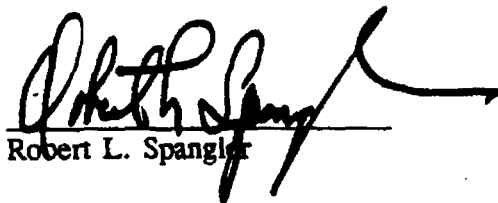
2. Respondent is assessed \$4,500.00.
3. The parties requested a postponement of the hearing scheduled for September 2, 1993 and were each assessed and paid \$375.00 in postponement fees.

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

ARBITRATION PANEL

Richard S. Peskin, Esq.	-	Industry Chairperson
James H. Conley	-	Industry Panelist
Robert L. Spangler	-	Industry Panelist

Concurring Arbitrator's Signature


Robert L. Spangler

Date of Decision: March 2, 1994

STATE OF New York S.S.:
COUNTY OF Westchester

On this day of February, 1994, before me personally appeared Robert L. Spangler known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.

Darlene Lynch Hedges

DARLENE LYNCH HEDGES
Notary Public, State of New York
No. 4873523
Qualified in New York County
Commission Expires Oct. 12, 1994

\$3,250.00 and owes a balance of.

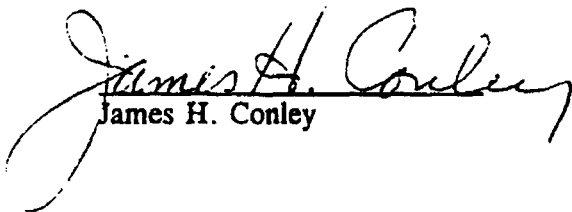
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James H. Conley	-	Industry Panelist
Robert L. Spangler	-	Industry Panelist

Concurring Arbitrator's Signature


James H. Conley

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Concurring Arbitrator's Signature


Richard S. Peskin, Esq.

Date of Decision: March 2, 1994

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COUNTY OF *New York*

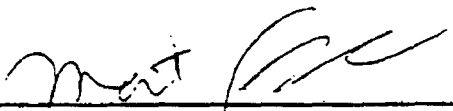
On this *25th* day of February, 1994, before me personally appeared James H. Conley known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.



Valerie Bailey
Comm. Expires 7/14/94

STATE OF *Westchester* S.S.:
COUNTY OF *Westchester*

On this *14* day of February, 1994, before me personally appeared Richard Peskin known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.



Martin Fishman
Notary Public, State of New York
No. 1233980
Qualified in Nassau County
Commission Expires: August 31, 1995