

**N.A.S.D. AWARD**

**NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.**

In the matter of the Arbitration Between

**Name of Claimant(s)**

Dean Witter Reynolds, Inc.

NASD Arbitration  
No. 92-00633

**Name of Respondent(s)**

Darwin Hostelley

**REPRESENTATION**

For Claimant: Jay Cutler, Esq., Dean Witter Reynolds, Inc., San Francisco, California

For Respondent: Darwin Hostelley, Honolulu, Hawaii

**CASE INFORMATION**

Statement of Claim filed: February 19, 1992

Claimant's Submission Agreement signed: February 14, 1992

Respondent Darwin Hostelley did not file a Submission Agreement and Statement of Answer. However, he appeared at the hearing and is subject to National Association of Securities Dealers, Inc. (NASD) jurisdiction in accordance with Section 8 of the NASD Code of Arbitration Procedure.

**HEARING INFORMATION**

Pre-Hearing Conference Date/Session: None

Hearing Date/Session: October 14, 1993 (one session)

Hearing Location: Honolulu, Hawaii

**CASE SUMMARY**

Claimant alleged that Respondent breached the terms of his Account Executive Incentive Compensation Agreement (Non-Trainee) (the Agreement) dated March 12, 1990 and Promissory Note (the Note) dated March 12, 1990.

### RELIEF REQUESTED

Claimant requested:

1. The principal sum of \$6,928.24 plus accrued interest at the legal rate from September 12, 1990 through the date of this award with respect to the Agreement;
2. The principal sum of \$66,467.67 plus accrued interest at the contract rate of 10% from September 12, 1990 through the date of this award with respect to the Note;
3. Costs;
4. Attorneys' fees; and
5. Any and all further relief which this panel deems just and proper.

### OTHER ISSUES CONSIDERED AND DECIDED

The parties have agreed that the Award in this matter may be executed in either 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.

### 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. With respect to the Promissory Note, Respondent Darwin Hostalley is liable for and shall pay to Dean Witter Reynolds, Inc. the sum of \$87,196.49, inclusive of interest.
2. Respondent Darwin Hostalley is liable for and shall pay to Dean Witter Reynolds, Inc. the sum of \$1,100.00 as reimbursement for Claimant's filing fee and hearing deposit.
3. The panel declined to award damages on the Incentive Compensation Agreement.
4. The parties shall each bear their respective costs including attorney's fees.

### FORUM FEES

Pursuant to Section 44(c) of the Code of Arbitration Procedure, the following forum fees are assessed: The NASD shall retain the \$600.00 hearing session deposit as costs of this proceeding.

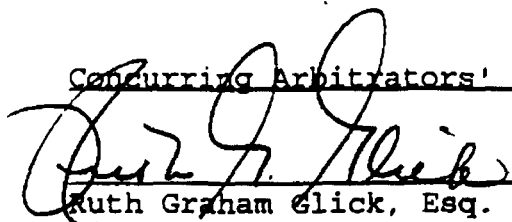
**ARBITRATORS**

Name . . . . . Public / Industry

Ruth Graham Glick, Esq.  
Terrence W. Dorsey  
Elliot L. Luke

Industry Arbitrator  
Industry Arbitrator  
Industry Arbitrator

Concurring Arbitrators' Signatures

  
\_\_\_\_\_  
Ruth Graham Glick, Esq.

\_\_\_\_\_  
Terrence W. Dorsey

\_\_\_\_\_  
Elliot L. Luke

Date of Decision: 11/24/93