

12/94

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N.A.S.D. STIPULATED AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

PaineWebber, Inc.

93-01400

Name of Respondent

Roberto O Murillo

REPRESENTATION

For Claimant, PaineWebber, Inc ("P.W."): Sergio Alvarez-Mena, III, Esq. of Morgan, Lewis & Bockius, Miami, Florida.

For Respondent, Robert O. Murillo ("Murillo"): George M. Evans, Esq., of Koppen, Watkins, Partners & Associates, Miami, Florida.

CASE INFORMATION

Statement of Claim filed: April 5, 1993. Claimant's Submission Agreement signed: April 2, 1993.

Statement of Answer filed by Respondent: July 23, 1993. Respondent's Submission Agreement signed: July 26, 1993.

HEARING INFORMATION

A hearing lasting two sessions was conducted on August 16, 1994 in Fort Lauderdale, Florida.

94/2091

Award, 93-01400

CASE SUMMARY

Claimant, P.W., alleged that Respondent, Murillo, is liable for losses suffered by Claimant as a result of multiple unauthorized transfers initiated by Respondent from the customer's account; that liability is based upon the asserted counts for (I) breach of fiduciary duty, (II) common law conversion, (III) constructive trust, (IV) indemnification, (V) breach of implied contract to recover damages for unauthorized transfers, and (VI) three promissory notes executed by Respondent in favor of Claimant, two of which were employee forgivable loans due upon termination for cause, the third was payable on demand.

Respondent denied all allegations of wrongdoing and alleged that all transfers were authorized and approved; that all monies were transferred according to specific instructions and Respondent did not receive any monies for his use and benefit from these transactions; that, as to the Claims for the promissory notes, all conditions precedent have not been met and he is entitled to setoff claims; that Claimant has waived rights to collect on the notes; and that Claimant has suffered no losses through any action alleged.

RELIEF REQUESTED

Claimant requested an award of damages in the total amount of \$405,950.22, plus interest. The damages sought included an award of damages in the amount of \$208,002.76, based on the settlement for the authorized transfers, and \$197,417.96 due and owing under the three promissory notes.

Respondent requested dismissal of all claims.

OTHER ISSUES CONSIDERED & DECIDED

None.

AWARD

This matter came before the undersigned arbitrators upon the stipulation of the parties to the controversy as set forth in submissions to arbitration. The arbitration panel, having considered the pleadings and reviewed the attached Stipulation for Entry of Award in Favor of Claimant has determined in full and final resolution of the issues submitted for determination as follows:

The undersigned panel hereby consents to the attached Stipulation for Entry of Award in Favor of Claimant signed by counsel for the respective parties and incorporates the stipulation by reference in this Award (see Stipulation attached as Exhibit A).

Award, 93-01400

9412091

COSTS

Each party shall pay its own costs and attorneys' fees.

FORUM FEES

1. Pursuant to Section 44(c) of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of \$1,500.00 (two (2) hearing sessions x \$750.00).
2. Pursuant to the stipulation of the parties, the Claimant shall pay all forum fees and is hereby assessed \$1,500.00, for which the NASD shall retain the \$750.00 previously deposited in partial satisfaction thereof, leaving a balance due to the NASD from the Claimant in the amount of \$750.00.
3. The NASD shall retain the non-refundable filing fee of \$500.00 paid by the Claimant.

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

Concurring Arbitrators' Signatures

Name

 /5/
Harold D. Powell, Jr., Esq.

Industry/Chairman

 /5/
Nicholas A. Natale

Industry/Panelist

 /5/
Robert P. Root

Industry/Panelist

Date of Decision: 12-9-94

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NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration between

PAINWEBBER INCORPORATED,

Claimant,

vs.

CASE NO. 93-01400

ROBERTO ORLANDO MURILLO,

Respondent.

STIPULATION FOR ENTRY OF AWARD IN FAVOR OF CLAIMANT

Claimant PAINWEBBER INCORPORATED ("PaineWebber") and Respondent ROBERTO ORLANDO MURILLO ("Murillo"), pursuant to a separately executed Stipulation for Settlement, hereby stipulate to the entry of an Award in favor of claimant PaineWebber as follows:

1. The award shall be entered in favor of claimant PaineWebber on all claims asserted herein. Upon entry, the award shall be immediately confirmable and subject to entry as an enforceable final judgment against Murillo in the courts of record in the State of Florida.

2. The amount of said judgment and the terms of the agreement are set forth in a separate Settlement Stipulation which will be entered of record in the courts of record in the State of Florida.

3. PaineWebber shall pay all forum fees incurred in connection with these arbitration proceedings.

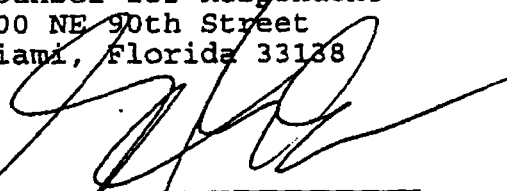
9412091

CASE NO. 93-01400

4. The parties agree that the Panel shall retain jurisdiction over this matter through August 16, 1995.


DATED THIS 11th day of October, 1994.

KOPPEN WATKINS PARTNERS & ASSOC., P.A.
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