

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Stephen A. Grinnell

93-01514

Name of Respondent

Mabon Securities Corporation

REPRESENTATION

For Claimant Stephen A. Grinnell ("Claimant"): Martin P. Unger, Esq., of Tenzer, Greenblatt et al.

For Respondent Mabon Securities Corporation ("Mabon"): John E. Kiley, Esq., of Kelley Drye et al.

CASE INFORMATION

Statement of Claim filed: April 13, 1993.

Claimant's Submission Agreement signed on: April 6, 1993.

Statement of Answer filed by Respondent on: June 14, 1993.

Amended Answer filed by Respondent on: September 3, 1993.

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

HEARING INFORMATION

Hearing Date/Sessions:

November 17, 1993/2 sessions

Hearing Location:

NASD/New York, New York

CASE SUMMARY

Claimant alleged Respondent breached the oral representations it made to him to consider and award him a bonus for the 1991 calendar year. Claimant alleged Respondent made these representations to induce him to remain and provide assistance during Respondent's merger period. Claimant alleged that when Respondent no longer needed him it terminated his employment and that Respondent never considered him for a bonus; and if it did, it never considered him in good faith.

Respondent denied it made any representations or gave any guarantees to Claimant that he would be awarded a bonus for the 1991 calendar year. Respondents maintained Claimant was informed that he might be eligible to receive annual bonuses based upon performance, which it asserted was reflected in the unsigned employment agreement between it and Claimant.

Respondent maintained it did not make any false representations to induce Claimant to work for a bonus; it simply offered employment to Claimant after the merger. Respondents asserted that when no established position for Claimant could be found, it terminated him. Respondent contended Claimant was an employee-at-will and that it had the right to terminate him at any time.

RELIEF REQUESTED

Claimant requested: actual damages in the amount of \$40,000.00, or, in the alternative, a fair and appropriate bonus for the 1991 year comparable to those awarded to other Mabon personnel in administrative positions, plus interest at nine (9%) percent per annum from January 3, 1992; costs; and attorneys' fees.

Respondent requested: the Statement of Claim be dismissed in its entirety.

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.

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 is hereby liable and shall pay to Claimant the sum of \$20,833.00, plus simple interest at the statutory rate of nine (9%) percent from January 3, 1992 until date of payment of this award;
2. All other claims are denied;
3. Each party shall bear its own costs, including attorneys' fees; however, Respondent is hereby liable and shall reimburse the \$600.00 hearing session deposit Claimant previously deposited with the NASD.

FORUM FEES

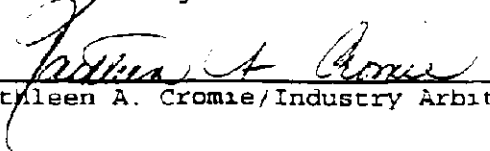
Pursuant to Section 44c of the Code of Arbitration Procedure, the NASD shall retain the \$500.00 non-refundable filing fee previously paid by Claimant and the following Forum Fee are assessed.

2 sessions X \$600.00 = net \$1,200.00 due.

Forum fees Assessed Against:

1. Respondent is hereby liable, in the amount of \$1,200.00; however, Respondent shall reimburse Claimant as noted above, therefore, the amount due and owing to the NASD equals \$600.00.

Arbitrator Signature

  
Kathleen A. Cromie/Industry Arbitrator

Date of Decision: January 25, 1994

EVELYN RODRIGUEZ CROMIE  
Notary Public, State of New York  
No. 41-801688  
Qualified in Queens County  
Certificate Filed in New York County  
Commission Expires March 22, 1995

STATE OF

COUNTY OF

On this 2<sup>nd</sup> day of October 1993, before me personally appeared Kathleen Cromie known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he/she executed the same.

Evelyn Rodriguez-Chong

EVELYN RODRIGUEZ CHONG  
Notary Public, State of New York  
No. 41-6010808  
Qualified in Queens County  
Certificate Filed in New York County  
Commission Expires March 28, 1995

RELIEF REQUESTED

Claimant requested: actual damages in the amount of \$40,000.00, or, in the alternative, a fair and appropriate bonus for the 1991 year comparable to those awarded to other Mabon personnel in administrative positions, plus interest at nine (9%) percent per annum from January 3, 1992; costs; and attorneys' fees.

Respondent requested: the Statement of Claim be dismissed in its entirety.

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.

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 is hereby liable and shall pay to Claimant the sum of \$20,833.00, plus simple interest at the statutory rate of nine (9%) percent from January 3, 1992 until date of payment of this award;
2. All other claims are denied;
3. Each party shall bear its own costs, including attorneys' fees; however, Respondent is hereby liable and shall reimburse the \$600.00 hearing session deposit Claimant previously deposited with the NASD.

FORUM FEES

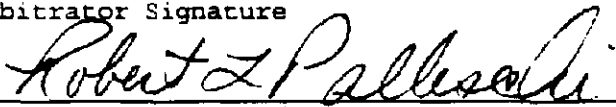
Pursuant to Section 44c of the Code of Arbitration Procedure, the NASD shall retain the \$500.00 non-refundable filing fee previously paid by Claimant and the following Forum Fee are assessed.

2 sessions X \$600.00 = net \$1,200.00 due.

Forum fees Assessed Against:

1. Respondent is hereby liable, in the amount of \$1,200.00; however, Respondent shall reimburse Claimant as noted above, therefore, the amount due and owing to the NASD equals \$600.00.

Arbitrator Signature

  
Robert L. Palleschi/Industry Arbitrator

Date of Decision: January 25, 1994

STATE OF *New York*  
COUNTY OF *New York*

On this *6<sup>th</sup>* day of *Dec.*, 1993, before me personally appeared Robert L. Palleschi known and known to me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he/she executed the same.

*Carol E. Falanga*

CAROL E. FALANGA  
Notary Public, State of New York  
NO. *5-12345* *KING*  
Qualified in *New York*  
Commission Expires *9-30-95*

RELIEF REQUESTED

**Respondents requested: the Statement of Claim be dismissed in its entirety.**

**ANAL**

**FORM FBI**

JAN 25 94 10:11AM SHERSON LEHMAN

STATE OF *New York*  
COUNTY OF *Nassau*

S.S.:

On this *25<sup>th</sup>* day of *January*, 199*4*, before me personally appeared ~~John~~  
*Eric L. Larson, Esq.* known to me to be the individual described in and who executed the  
foregoing instrument and he duly acknowledged to me that he/she executed the same

*Lisa Bardenhagen*

LISA BARDENHAGEN  
Notary Public, State of New York  
No. 30-4810374  
Qualified in Nassau County  
Commission Expires September 30, 19*95*