

N.A.S.D AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Dean Witter Reynolds Inc.

93-01719

Name of Respondent(s)

Neil Bauman

REPRESENTATION

For Claimant: Erica Bunin, Esq. of Dean Witter Reynolds, Inc.

For Respondent: Stephen X. O'Brien, Esq. of Culley, Marks, Tanenbaum, Reifsteck, Potter & Capell.

CASE INFORMATION

Statement of Claim filed:

Claimant's Submission Agreement signed on: April 27, 1993.

Statement of Answer filed by Respondent, Niel Bauman on: June 21, 1993

Respondent, Niel Bauman's Submission Agreement signed on: June 18, 1993.

HEARING INFORMATION

Hearing Date/Sessions: December 15, 1993/2 Sessions

Hearing Location: Buffalo, New York.

CASE SUMMARY

Claimant alleges that Respondent is required to reimburse and compensate Claimant for expenses incurred in training pursuant to a written agreement which Respondent signed when he became employed by Claimant. Claimant further alleges that Respondent has refused Claimant's requests to honor his obligations.

Respondent maintains that the liquidated damage amount does not actually represent the expense incurred by Claimant in training and compensating him. Respondent further maintains that the amount of commissions he generated should not be limited to those generated during the first year of his employment. Respondent also maintains that Respondent's branch manager prohibited Claimant from selling any product other than Claimant's proprietary funds, refused to allow Respondent to make appointments out of the office during office hours, required Respondent to devote all his time to cold calls, and continually threatened to terminate Respondent in order to make him liable for training costs. Respondent further maintains that the conduct of Claimant's branch manager compelled Claimant's termination, and that he was not terminated for cause or voluntarily.

RELIEF REQUESTED

Claimant requests damages in the amount of \$24,262, plus interest, costs and any and all further relief which the Panel deems just and proper.

Respondent requests that the claim be dismissed in its entirety and for 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 and post hearing submissions if any, 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 the Claimant the sum of \$15,000.
- 2) The claim for interest is hereby denied.
- 3) The claim for costs is hereby denied.
- 4) The Claimant shall be liable for one-half of the forum fees for the cost of this arbitration.

- 5) The Respondent shall be liable for one-half of the forum fees for the cost of this arbitration.

FORUM FEES

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

1. \$500.00 filing fee
2. 2 x \$600.00 Hearing Session Deposit = \$1200.00

Total: \$1,700.00

1. Claimant shall pay the NASD the sum of \$850.00 to be offset by the \$1,100.00 already paid to the NASD. The Claimant shall receive a reimbursement of \$250.00 from the Respondents.
2. Respondent shall pay to the NASD the sum of \$850.00. This amount shall be satisfied by reimbursing the Claimant \$250.00 and paying the balance of \$600.00 to the NASD.

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

Concurring Arbitrator Signature
Name

Public/Industry

Maryann Donahue-Yadon
Maryann Donahue-Yadon

Date of Decision: 3/7/94

NASD Date of Decision: April 12, 1994

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STATE OF: New York
COUNTY OF: New York

S.S.:

On this 7 day of MARCH, 1994, before me personally appeared Maryann Donahue-Yadon 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 executed the same.

Maryann Donahue-Yadon - 7-5-94

- 5) The Respondent shall be liable for one-half of the forum fees for the cost of this arbitration.

FORUM FEES

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2. 2 x \$600.00 Hearing Session Deposit = \$1200.00

Total: \$1,700.00

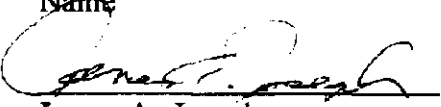
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2. Respondent shall pay to the NASD the sum of \$850.00. This amount shall be satisfied by reimbursing the Claimant \$250.00 and paying the balance of \$600.00 to the NASD.

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

Concurring Arbitrator Signature

Name

Public/Industry


James A. Joseph

Date of Decision: April 12, 1994

STATE OF: New York
COUNTY OF: New York

S.S.:

On this 28th day of February, 1994, before me personally appeared James A. Joseph 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 executed the same.

Christine C. Kassis

CHRISTINE C. KASSIS
Notary Public for the State of New York
My Commission Expires December 31, 1994