

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Bonnie Ott

Award  
#93-01767

Name of Respondents

Craig Medoff  
Brian Gregory McGowan  
Jonah Rosenblatt  
First Madison Securities  
Churchill Securities  
Hercules Capital Inc.  
Northern Investments Inc.  
Allied Securities

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**REPRESENTATION**

For Claimant, Bonnie Ott ("Claimant") Arthur Barnett, Esq., from the law firm of Arthur Barnett.

For Respondent, Jonah Rosenblatt ("Rosenblatt") Michael Bachner, Esq. from the law firm of Michael Bachner.

For Respondent, Churchill Securities ("Churchill") Gary E. Botchman, Esq. from the law firm of Gary E. Botchman.

Respondent, Craig Medoff did not file an answer.

Respondent, Brian McGowan did not file an answer.

Respondent, First Madison did not submit to arbitration.

Respondent, Hercules Capital, Inc. did not submit to arbitration.

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Respondent. Northern Investments did not submit to arbitration.

Respondent. Allied Securities did not submit to arbitration.

Claimants Submission Agreement signed on March 19, 1993.

Revised Statement of Claim agreement signed on April 1, 1993.

Statement of Claim filed on March 19, 1993.

Churchill's Statement of answer filed on July 30, 1993.

Churchill's Submission Agreement signed on July 30, 1993.

Rosenblatt's Submission Agreement signed on October 29, 1993.

Rosenblatt's Statement of Claim filed on October

#### **HEARING INFORMATION**

Hearing Dates/Hearing Sessions: January 6, 1994 - 2 Sessions

#### **CASE SUMMARY**

Claimant alleged that she was hired by Medoff in the capacity of Operations Manager for his brokerage firm, Hercules Capital, Inc. Medoff was involved with associated firms named Churchill and Northern Investments.

Claimant alleged that she was to receive \$55,000 per year in salary plus \$10,000 bonus and one-third of the proceeds derived from the use of a customer list which she owned and supplied. Claimant alleged that she was constantly cajoled and harassed by Medoff to become a member of the board of directors of Churchill.

Claimant alleged that while attempting to repair a paper jam on an office printer, she sustained a back injury and was subsequently fired by Medoff.

Claimant alleged that Medoff has refused to return to Claimant the list of customers nor will he account to her concerning its use and the fruits thereof.

Respondent Churchill maintained that it has no knowledge of Claimants' salary agreement with Medoff, no knowledge of Medoff's request of Claimant to become a member of the board of directors of Churchill.

Churchill maintained that it had no knowledge and was not notified of the injury allegedly received by Claimant.

Churchill maintained that it had no knowledge that Medoff was in possession of or has refused to return to Claimant her customer list. Churchill maintained and denied that Medoff was ever a principal of Churchill.

Respondent Rosenblatt maintained that since he had no supervisory or other oversight duties at Churchill, he has insufficient knowledge upon which to deny or admit the allegations contained in the Statement of Claim. Claimant maintained that nothing about Rosenblatt's association with Churchill exposes him to individual liability for the acts of the corporation.

Craig Medoff did not file a Statement of Answer.

Brian McGowan did not file a Statement of Answer.

First Madison did not file a Statement of Answer.

Hercules did not file a Statement of Answer.

Northern Investments did not file a Statement of Answer.

Allied Securities did not file a Statement of Answer.

#### **RELIEF REQUESTED**

Claimant requested the sum of \$67,000.00 in actual damages, together with the return of customer lists now in the hands of respondents.

Respondent Rosenblatt requested that Claimant's claim be denied in its entirety, and that the panel enter an order for attorney fees, interest, costs of suit and all such other relief as the panel deems just and proper.

Respondent Churchill requested that Claimant's claim be denied or, in the event any award is made against Churchill, that the co-respondents Medoff, Hercules, Northern Investments, McGowan, Rosenblatt and Madison be ordered to indemnify, hold harmless and pay over to Churchill the amount of any award against Churchill. It was further requested that an award be entered in favor of

Churchill and against the aforementioned co-respondents for the amounts of attorney's fees incurred by Churchill in defending this proceeding.

**OTHER ISSUES CONSIDERED & DECIDED**

1. After the conclusion of Claimant's case First Madison made a Motion to Dismiss. The panel unanimously granted that Motion.
2. After the conclusion of Claimant's case Jonah Rosenblatt made a Motion to Dismiss. The panel unanimously granted that Motion.
3. After the conclusion of Claimant's case, Churchill made a motion to Dismiss that Motion was unanimously denied.
4. Churchill renewed its Motion at the conclusion of its case. That Motion was again unanimously denied.

**AWARD**

After considering the pleadings, the testimony and the evidence presented at the hearing and post hearing submissions (if any), the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Craig Medoff, Brian McGowan, Northern Investments, Inc. and Hercules Capital, Inc. are jointly and severally liable to Claimant in the amount of \$67,000.00 plus costs.
2. It is ordered that whoever has Bonnie Ott's book of customer account must return it to her immediately.
3. Respondents Medoff, McGowan, Northern Investments and Hercules shall jointly and severally be responsible for all forum fees associated with this arbitration.

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**FORUM FEES**

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed.

Non-refundable Filing Fee: \$150.00.

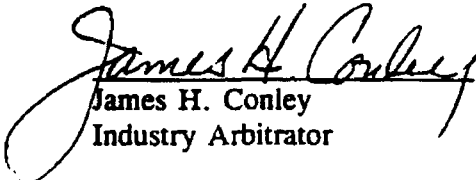
Hearing Session Fees: 2 X 500 sessions = \$1,000.00.

Total: \$1,150.00.

1. Craig Medoff, Brian McGowan, Northern Investments and Hercules Capital, Inc. shall jointly and severally pay the NASD the sum of \$1,150.00.
2. The above named Respondents shall satisfy the above forum fees by reimbursing Claimant \$650.00 for fees already paid to the NASD and remitting the balance of \$500.00 to the NASD.

Arbitrator's Signature

Name

  
James H. Conley  
Industry Arbitrator

Date of Decision: \_\_\_\_\_

NASD DATE OF DECISION 4/4/94

STATE OF: New York

S.S.:

COUNTY OF: New York (1~)

On this 15 day of March, 1994, before me personally appeared JAMES H. CONLEY 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.

  
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**HARRY HELFENBAUM**

Commissioner of Deeds

City of New York - No. 5-883

Certificate Filed in Richmond County

Commission Expires June 30, 1995