

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Hampshire Securities Corp.

vs.

Case No.  
93-03150

Name of Respondent

Pamela Spence Murray

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**REPRESENTATION**

For Claimant, Hampshire Securities Corp. ("Claimant"), Aegis J. Frumento, Esq. located in New York, New York.

Respondent, Pamela Spence Murray ("Respondent"), represented herself at the hearing.

**CASE INFORMATION**

Statement of Claim was filed on August 11, 1993.

Claimant's Submission Agreement was signed on August 10, 1993.

Statement of Answer was filed by Respondent on December 29, 1993.

Respondent's Submission Agreement was signed on December 27, 1993.

**HEARING INFORMATION**

Hearing Date/Sessions: September 9, 1994 - 1 session

Hearing Location: NASD, Inc., 33 Whitehall Street, New York, NY

**CASE SUMMARY**

Claimant alleges that at the time Respondent joined Claimant's firm, Respondent signed a preliminary compensation agreement dated July 7, 1992 which expired November 30, 1992. Pursuant to this agreement, Claimant alleges that Respondent was entitled to earn commissions at a rate of 25% of pre-tax profits on commissions and fees collected on her clients' accounts, only to the extent those amounts excluded clearance costs, draw she collected, and overhead costs allocated to her.

Claimant alleges that on February 29, 1993, Respondent admitted after it was discovered that she had falsified signatures in at least three investment management accounts originally represented to have been signed by clients. Claimant also alleges that Respondent was terminated for cause by Claimant.

Claimant further alleges that upon Respondent's termination, subtracting the clearance costs, draw and allocation of overhead from Respondent's total fees and commission collected, Respondent generated a net loss of \$41,903.00 during her employment at Hampshire Securities Corp. Accordingly, Claimant states Respondent earned no pre-tax profits and she earned none of the \$39,807.76 in draw collected by her. In a letter dated May 27, 1993, Claimant alleges that it demanded that Respondent refund to Claimant the \$39,807.76 in unearned draw and that Respondent did not respond to the letter. Claimant also alleges that Respondent's failure to refund the monies upon demand amounts to a breach of an expressed agreement with Claimant or, in the alternative, a breach of a implied promise to refund such monies.

Respondent alleges that she never received such a demand for repayment and the only amount ever communicated to her was around \$20,000.00 by the President of Hampshire Securities Corp., John H. Starr ("Starr").

Respondent alleges that when she signed the compensation agreement with Starr, she was led to believe he was a partner in Hampshire which she later found to be untrue. Respondent states that the employment agreement was a very brief part of a more extensive verbal agreement which included an understanding that it would take six to nine months to establish an investment consulting business and it was understood that Claimant would lose approximately \$50,000.00 during the early period of the agreement. Furthermore, Respondent states that Claimant agreed that Claimant would pay her personal business expenses, and that of which only one payment was made.

Respondent states that the agreement which was reasonable at the start became constant badgering by Hampshire's partners when Claimant lost a broker in September 1992 who had been contributing a significant amount of revenue to Claimant. Respondent further states that after several months, she felt pressured to report new business before it had been completely signed up.

Respondent also alleges that the preliminary agreement was verbally extended in early December 1992 and that this continuing verbal agreement was terminated without notification.

#### **RELIEF REQUESTED**

Claimant requests not less than \$39,807.76 and interest on this amount.

Respondent requests that the claim be denied.

#### **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 original remain on file with the NASD.

At the hearing date of September 9, 1994, the panel kept the record open to permit the Respondent to submit a document and for Claimant to submit related documents and substantiation of the Claimant's request for legal fees. All post-hearing submissions were due by September 14, 1994.

#### **AWARD**

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

The Respondent, Pamela Spence Murray, is hereby ordered to pay to Claimant, Hampshire Securities Corp., \$25,000.00 as repayment for draw not earned.

Claimants request for attorneys' fees is hereby denied.

Pursuant to Section 44(c) of the *Code of Arbitration Procedure*, the following Forum Fees are assessed and shall be borne equally by the parties:

<b>Total Forum Fees</b>	<b>\$1,100.00</b>
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1. Claimant previously deposited \$1,100.00 and is owed a refund of \$550.00.
2. Respondent shall satisfy the fees assessed by reimbursing Claimant \$550.00

## 11

**Mark R. Greenberg - Industry Panelist**

Mark R. Greenberg

Date of Decision: November 8, 1994

**FORUM FEES**

Pursuant to Section 44(c) of the *Code of Arbitration Procedure*, the following Forum Fees are assessed and shall be borne equally by the parties:

Non-refundable Filing Fee                      \$500.00

Hearing Session Fees  
(1 session x \$600.00)                      600.00

Total Forum Fees                                      \$1,100.00

1. Claimant previously deposited \$1,100.00 and is owed a refund of \$550.00.
2. Respondent shall satisfy the fees assessed by reimbursing Claimant \$550.00

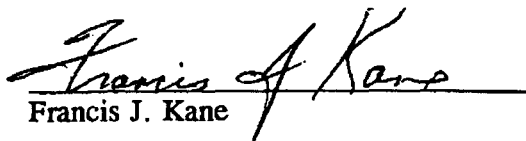
**ARBITRATION PANEL**

Bill T. Singer, Esq. - Industry Chairperson

Francis J. Kane - Industry Panelist

Mark R. Greenberg - Industry Panelist

Concurring Arbitrator's Signature

  
Francis J. Kane

Date of Decision: November 8, 1994


Pursuant to Section 44(c) of the *Code of Arbitration Procedure*, the following Forum Fees are assessed and shall be borne equally by the parties:

<b>Total Forum Fees</b>	<b>\$1,100.00</b>
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1. Claimant previously deposited \$1,100.00 and is owed a refund of \$550.00.
2. Respondent shall satisfy the fees assessed by reimbursing Claimant \$550.00

## 1

**Mark R. Greenberg - Industry Panelist**

  
Bill T. Singer, Esq.

**Date of Decision: November 8, 1994**

STATE OF: *NY*

COUNTY OF: *NY*

SS:

On this *7<sup>th</sup>* day of *Nov.*, 1994, before me personally appeared **Bill T. Singer, Esq.** know 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.



VALERIE J. BAILEY  
NOTARY PUBLIC, State of New York  
No. 24-4940303  
Qualified in Kings County  
Commission Expires July 18, 1997 *✓*

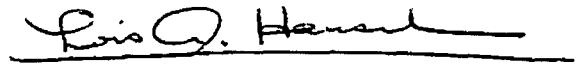

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NASD Arbitration No. 93-03150

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

SS:

On this *27<sup>th</sup>* day of *October*, 1994, before me personally appeared Francis J. Kane know 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.



LOIS A. HAUSCH  
Notary Public, State of New York  
No. 88-1710010  
Qualified in Nassau County  
Commission Expires *2/28/96*



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NASD Arbitration No. 93-03150

STATE OF: *New York*

COUNTY OF: *New York*

SS:

On this *1* day of *November*, 1994, before me personally appeared **Mark R. Greenberg** know 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.

*[Signature]*  
*Kelly Burke*

KELLY BURKE  
Notary Public, State of New York  
No. 52-4915821  
Qualified in Suffolk County  
Commission Expires December 21, 1995