

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Name of Claimant

William Grant Newman, Jr.

and

93-04065

Name of Respondent

First Southwest Company

REPRESENTATION OF PARTIES

William Grant Newman, Jr. ("Claimant") was represented by Fred Kolodey, Esq. Dallas, Texas.

First Southwest Company ("Respondent") was represented by Mary O'Connor, Esq. of Akin Gump Strauss Hauer & Feld, L.L.P., Dallas, Texas.

CASE INFORMATION

The Statement of Claim was filed on or about October 4, 1993. Submission Agreement of Claimant William Grant Newman, Jr. was signed on September 23, 1993.

Statement of Answer was filed by Respondent on or about November 19, 1993. Submission Agreement of Respondent First Southwest Company was signed on November 18, 1993 by Hill A. Feinberg.

HEARING INFORMATION

The hearing was held on Tuesday, May 24, 1994 for two (2) sessions in Dallas, Texas.

CASE SUMMARY

Claimant alleged that Respondent entered into an oral agreement to pay compensation based upon a bonus to be calculated on the fees generated by the Claimant's services, less a base salary. Specifically, Claimant alleged that in connection with the change in control of Respondent, the Claimant and Robert Utley, Chairman of the Executive Committee agreed that the Claimant's compensation would be as set forth above in addition to other discretionary bonuses.

Respondent denied the allegations set forth in the Statement of Claim and stated that the Claimant was compensated in accordance with its' policies. Respondent specifically denied that it had entered in to an oral agreement to pay the Claimant a calculated bonus of 40% of revenues generated on specific billings.

RELIEF REQUESTED

Claimant requested an award in the amount of \$65,103.94, attorney's fees and costs. Claimant also requested an award of exemplary or punitive damages in an amount equal to twice the amount of compensatory damages sought or \$130,207.88.

Respondent requested that the claims asserted in this matter be denied and dismissed in their 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 original(s) remain on file with the N.A.S.D.

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 First Southwest Co. shall be and hereby is liable for and shall pay to the Claimant William Grant Newman, Jr. the sum of Seventy five thousand eight hundred three dollars and ninety four cents (\$75,803.94).
2. The claim for punitive damages is hereby dismissed and denied.

FORUM FEES

Forum fees are calculated at the rate of \$750 per hearing session and \$300 for each prehearing conference, if any. There were 2 sessions x \$750 = \$1,500 in forum fees. Pursuant to §44(b) a hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less.

Pursuant to §44(c) of the N.A.S.D. Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. ("NASD") shall retain the non-refundable filing fee in the amount

of \$500; and shall retain as forum fees the hearing session deposit in the amount of \$750 previously deposited with the NASD by the Claimant. Respondent shall be and hereby is liable for and shall pay to the NASD the sum of \$750 as the balance due for forum fees. Fees are payable to the National Association of Securities Dealers, Inc.

.1 0.

Dated:

5/24/94

5/24/94

W D Connally

William D. Connally
Industry Arbitrator

5-24-94

Served on 5/31/94