

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Kemper Securities, Inc.

93-05315

Name of Respondents

Larry W. Milliken

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on December 22, 1993, Claimant Kemper Securities, Inc., through its counsel Diane C. Fischer, of Siegan Barbakoff Gomberg & Kane, Chicago, Illinois, alleged that Respondent Larry W. Milliken was a registered representative of Boettcher Investment Corporation, a firm owned by Claimant. Claimant further alleged that Respondent entered into a Promissory Note with Boettcher Investment Corporation in the amount of \$20,700.00. Claimant contended that pursuant to the terms of the Note, the Note shall inure to the benefit of and be binding upon Boettcher Investment Corporation, its successors and assigns. Claimant further alleged that the terms of the promissory note indicated that if Respondent left the employ of Claimant, the remaining balance on the Note would become immediately due and payable and interest would begin to accrue at 8% per annum. Claimant contended that on April 8, 1993, Respondent resigned from Claimant. Claimant further contended that Respondent has failed and has refused to honor this obligation to Claimant. In its Response to Respondent's Answer, Claimant alleged that Respondent's purported defenses are unsubstantiated, incredible and legally irrelevant. As a result of the above, Claimant alleged that it has suffered damages for which the Respondent should be held liable.

Respondent Larry W. Milliken, who appeared Pro Se, maintained that he decided to work for Boettcher Investment Corporation because he wanted to finish his career with a small regional firm. Respondent further maintained that he was assured by Boettcher management that Kemper Insurance Company had no

intention of entering the securities business. Respondent contended that Boettcher management assured him the contract would not be valid if Claimant took over Boettcher Investment Company, and only after this assurance did he sign the Promissory Note. Respondent further contended that shortly after he signed the Promissory Note, Boettcher Investment Corporation became Claimant Kemper Securities, Inc. Respondent maintained that the name Kemper does not appear in the Promissory Note. Respondent further maintained that he had no interest in working for John Jeffer, his new manager at Claimant. As a result of the above, Respondent contended that he should not be held liable in this matter.

RELIEF REQUESTED

Claimant Kemper Securities, Inc. requested \$5,175.00 in actual damages, \$465.56 in interest, and \$1,276.50 in attorney's fees and costs.

Respondent Larry W. Milliken requested that the Claimant's Statement of Claim be dismissed in its entirety.

AWARD

Pursuant to Section 10 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single industry arbitrator, Charles C. DeMoss, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on December 17, 1993 and by the Respondent on June 16, 1994.

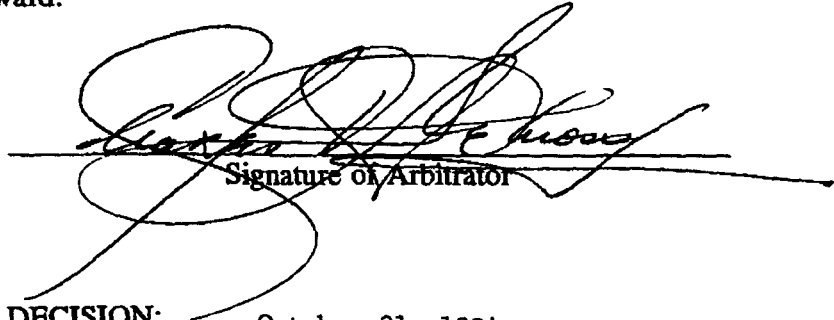
And, the Arbitrator, having considered the proof of the Parties, including the Respondent's Answer, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondent Larry W. Milliken is liable and shall pay to Claimant Kemper Securities, Inc. \$2,587.50 in actual damages.
2. The parties shall bear their respective costs, including attorney's fees.
3. The \$575.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc. Respondent Larry W. Milliken is liable and shall pay to Claimant Kemper Securities, Inc. \$287.50 as partial reimbursement of the filing fee.

Page Three
Award 93-05315

AFFIRMATION

I, **CHARLES C. DEMOSS**, do hereby affirm upon my oath of arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.

A handwritten signature in black ink, appearing to read "Charles C. Demoss", is written over a horizontal line. The signature is stylized with large loops and a long horizontal stroke extending to the right.

Signature of Arbitrator

DATE OF DECISION: October 31, 1994