

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

David Zilenziger

vs.

Case #
93-05351

Name of Respondent

Commonwealth Associates

REPRESENTATION

For Claimant, David Zilenziger ("Claimant"), David E. Robbins, Esq., from the law firm of Kaufman Feiner Yamin Gildin & Robbins, located in New York, New York.

For Respondent, Commonwealth Associates ("Respondent"), David S. Richan, Esq., from the law firm of Tenzer, Greenblatt, Fallon & Kaplan, located in New York, New York.

CASE INFORMATION

Statement of Claim was filed on December 27, 1993.

Claimant's Submission Agreement was signed on December 23, 1993.

Statement of Answer was filed by Respondent on March 8, 1994.

Respondent's Submission Agreement was signed on March 7, 1994.

HEARING INFORMATION

Hearing Dates/Sessions: January 10, 1995 - 2 sessions
 February 6, 1995 - 2 sessions

Hearing Location: NASD offices located in New York, New York.

CASE SUMMARY

Claimant alleges that he is employed as an assistant vice president in the Respondent firm's Domestic Institutional Sales Department. Claimant also alleges that Respondent owes him

finder's fee compensation for bringing the initial public offering of Lottery Enterprises, Inc. ("LEI") to the Respondent. Claimant further alleges that Respondent promised him a certain percentage of the underwriter's warrants and of the management fee obtained by Commonwealth for the offering. Claimant contends that Respondent failed to compensate him as agreed.

Respondent denies the allegations as set forth in the Statement of Claim, except that Claimant was a co-finder of the LEI underwriting and was entitled to a portion of the finder's fees pursuant to the firm's policy.

Respondent maintains that Claimant was hired as an institutional salesman assigned to open new institutional accounts and service them as well as existing accounts in a specific territory. Respondent also contends that Claimant was not hired to find "potential financial deals" for the firm, but the firm expected him to bring such potential financing transactions to its attention and in these circumstances he would receive a finder's fee. Respondent further contends that Claimant was not the sole finder and that under firm policy, the total payment to finders, whether there was one or more finders, was fifteen percent (15%) of the management fee and fifteen percent (15%) of the underwriter's warrants received by the firm.

Respondent contends that Claimant received the full compensation due him as co-finder of the LEI underwriting. Respondent also maintains that Claimant voluntarily resigned with the full knowledge that his resignation would result in the loss of his entitlement to the LEI warrants.

RELIEF REQUESTED

Claimant requests an award of twenty percent (20%) of the LEI underwriter's warrants, 70,000 warrants and twenty percent (20%) of the management fee received by Respondent (\$126,878.50) less any payments that Respondent already paid him; interest at the legal rate, legal fees and such other relief as the arbitrators deem appropriate and reimbursement of \$1,250.00 filing fees.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart copies and agreed to receive conformed copy of the Award while the original remains on file with the NASD.

AWARD

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

1. Respondent are liable and shall turn over to Claimant 21, 800 Lottery Enterprises, Inc. warrants as described in Exhibit A of Respondent's Statement of Answer, the November 17, 1993 agreement.
2. All claims for a monetary award are denied.

FORUM FEES

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

Non-refundable filing fee: \$500.00

Hearing Session Fees: \$3,000.00 (4 sessions at \$750.00 per session)

Total Fees: \$3,500.00

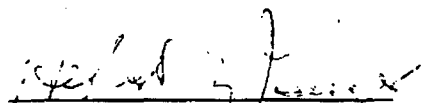
1. Claimant is assessed a \$500.00 non-refundable filing fee. Claimant previously paid \$1,250.00 and is entitled to a refund of \$750.00.
2. Respondent is assessed \$3,000.00 in forum fees and shall satisfy this assessment by reimbursing Claimant \$750.00 and by remitting the balance \$2,250.00 to the NASD.

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

ARBITRATION PANEL

Michael E. Olney, Esq.	-	Industry Chairperson
James R. Madan	-	Industry Panelist
Herbert Z. Geiger, Esq.	-	Industry Panelist

Concurring Arbitrator's Signature



Herbert Z. Geiger, Esq.

Date of Decision: March 20, 1995

1. Respondent are liable and shall turn over to Claimant 21, 800 Lottery Enterprises, Inc. warrants as described in Exhibit A of Respondent's Statement of Answer, the November 17, 1993 agreement.
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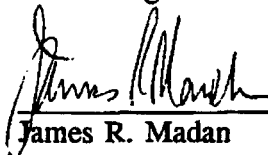
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ARBITRATION PANEL

Michael E. Olney, Esq.	-	Industry Chairperson
James R. Madan	-	Industry Panelist
Herbert Z. Geiger, Esq.	-	Industry Panelist

Concurring Arbitrator's Signature


James R. Madan

Date of Decision: March 20, 1995

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ARBITRATION PANEL

Michael E. Olney, Esq.	-	Industry Chairperson
James R. Madan	-	Industry Panelist
Herbert Z. Geiger, Esq.	-	Industry Panelist

Concurring Arbitrator's Signature


Michael E. Olney, Esq.

Date of Decision: March 20, 1995

State of NJ s.s.:
County of Bergen

On this 18th day of March, 1995, before me personally appeared Herbert Z. Geiger 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.

A handwritten signature in dark ink, appearing to read "Richard Dalton", is written over a horizontal line.

RICHARD DALTON
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES NOV. 3, 1998

State of New York s.s.:
County of Westchester

On this 15th day of March, 1995, before me personally appeared James R. Madan know 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.

Evelyn K. Isaac

EVELYN K. ISAAC
Notary Public, State of New York
Reg #4619450
Qualified in Westchester County
Term Expires March 30, 1997

State of *New York*
County of *New York*

s.s.:

On this *15th* day of March, 1995, before me personally appeared Michael E. Olney know 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.

Doris Y. Mason

DORIS Y. MASON
NOTARY PUBLIC, State of New York
No. 41-5004162
Qualified in Queens County
Commission Expires Nov. 9, 19 96