

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Karen Nelson

No. 94-01366

Name of Respondents

Dain Bosworth, Inc.

Noah Eisenberg

REPRESENTATION OF PARTIES

Claimant, Karen Neilsen ("Claimant") was represented at the hearing by Linda Ojala, Esq. of Kurzman Grant & Ojala, Minneapolis, Minnesota.

Respondents, Dain Bosworth, Inc. ("Dain") and Noah Eisenberg ("Eisenberg") were represented by John B. Orenstein, Esq. of Dain Bosworth, Inc. Minneapolis, Minnesota.

CASE INFORMATION

The Statement of Claim was filed on April 11, 1994. Claimant's Submission Agreement was signed on March 30, 1994.

The joint Statement of Answer was filed on or about June 27, 1994. Respondent Dain Bosworth's Submission Agreement was signed on June 27, 1994.

HEARING INFORMATION

The hearing was held on December 15, 1994 for two (2) hearing sessions in Minneapolis, Minnesota for a total of two sessions.

CASE SUMMARY

Claimant, in her Statement of Claim, alleged that she was employed by Dain Bosworth as a broker, and that pursuant to an oral contract, Dain Bosworth failed to pay her the promised commissions which she earned.

Respondents Dain Bosworth and Eisenberg stated in their Answer that there never was an agreement, oral or otherwise, between them.

RELIEF REQUESTED

Claimant requested her salaries and commissions earned, amounting to approximately \$6,468.00, a penalty of 15 days earnings for Respondent's failure to pay wages in a timely manner pursuant to Minn. Stat. 181.13-181.45, punitive damages, attorney's fees, filing fees, and costs.

Respondents requested that the claim be dismissed and that Respondents receive their costs, attorney's fees, and such other relief at the panel deems proper.

OTHER ISSUES CONSIDERED & DECIDED

Respondent Noah Eisenberg did not sign a Submission Agreement. Pursuant to Section 8 of the NASD Code of Arbitration Procedure, Eisenberg is bound by the panel's rulings herein.

The parties present at the hearing have agreed that the Award in this matter may be executed by 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 remains on file with the NASD.

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. The Statement of Claim is denied in its entirety by the panel;
2. Each of the parties shall bear their own costs and expenses incurred, including attorney's fees, other than those specifically enumerated under forum fees.

FORUM FEES

Pursuant to Section 43(c) of the NASD Code of Arbitration Procedure, the following forum fees are assessed:

two hearing sessions X \$600 = \$1200 minus hearing session deposit of \$600 = net \$600 due to the NASD.

Pursuant to Section 43(c) of the Code of Arbitration, the NASD shall retain the nonrefundable filing fee in the amount of \$500, and shall retain the hearing session deposit in the amount of \$600 previously paid to the NASD by the Claimant.

The panel has ordered that each party is responsible for one-third of the total sum of forum fees in the amount of \$1200. Therefore, the additional forum fees in the amount of \$600 are assessed against Respondent Dain Bosworth in the sum of \$400 and against Respondent Noah Eisenberg in the sum of \$200 payable to the NASD. Respondent Noah Eisenberg shall also reimburse to the Claimant the sum of \$200.

The additional forum fees assessed by the panel are payable to the National Association of Securities Dealers, Inc.

By The Arbitration Panel:

Dated:

4/3/95

s/s Emily B. Boote

Emily B. Boote, Esq.

Presiding, Industry Arbitrator

4/6/95

s/s Annette W. Minor

Annette W. Minor, Esq.

Industry Arbitrator

4/5/95

s/s Joseph M. Wetschka

Joseph M. Wetschka

Industry Arbitrator

Date of Service by the NASD: 4/27/95