

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

James R. Miller

94-01753

Name of Respondent

Kemper Securities Group, Inc.

Representation of Parties

Claimant, James R. Miller ("Claimant") was present and was represented at the hearing by Mark J. Rogus, Esq. of Angermeier & Rogers, Milwaukee, Wisconsin.

Respondent, Kemper Securities Group, Inc. ("Kemper") was present and was represented at the hearing by A. Brad Busscher, Esq. of Kemper Securities, Inc., Chicago, Illinois.

Case Information

Claimant's Statement of Claim was filed on May 10, 1994. Uniform Submission Agreement was signed on May 2, 1994 by James Miller.

Statement of Answer was filed on or about July 8, 1994. Uniform Submission Agreement was signed on July 7, 1994 by Brad Busscher on behalf of Kemper Securities.

Hearing Information

The hearing was held on February 23, 1995 for two (2) sessions in Chicago, Illinois for a total of two (2) sessions.

Case Summary

Claimant alleged in his Statement of Claim that Respondent Kemper breached its employment agreement entered into with Claimant by failing to pay a bonus for work performed in 1993.

Respondent Kemper, in its Answer, stated that Claimant negotiated other employment fully understanding that he would forfeit any entitlement to the discretionary bonus unless he remained in the full-time employment of Kemper at the time the bonus was paid.

Relief Requested

Claimant requested an accounting accurately to determine the amount of Claimant's bonus due and owing for the period from January 1, 1993 to August 31, 1993, the total of which is estimated to be approximately \$100,000.00

Respondent requested that the Statement of Claim be dismissed in its entirety and award Kemper its reasonable attorney's fees, in addition to the costs and expenses incurred.

Other Issues Considered and Decided

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 Claimant's Statement of Claim is denied in its entirety;
2. Each of the parties shall bear their own costs and expenses, including attorney's fees, other than those specifically enumerated for herein.

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 \$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 additional forum fees in the amount of \$600 are assessed against Respondent in the sum of \$600.

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

By The Arbitration Panel:

Dated:

5/8/95

s/s James E. Green
James E. Green, Presiding
Public Arbitrator

5/3/95

s/s Robert E. Waite
Robert E. Waite
Public Arbitrator

5/3/95

s/s Phillip M. Petraitis
Phillip M. Petraitis
Industry Arbitrator

Date Award Served By The NASD: 5/15/95

