

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the matter of the Arbitration Between

Name of Claimant(s)

Jon C. Colbert

NASD Arbitration
No. 95-00105

Name of Respondent(s)

Marketing One, Inc.
Marketing One Securities, Inc.
North Island Federal Credit Union

REPRESENTATION

For Claimant: Laura K. Kail, Esq., San Diego, California

For Respondents Marketing One, Inc. and Marketing One Securities, Inc.: Stephen J. Schultz, Esq., Merrill, Schultz & Wolds, Limited, San Diego, California

CASE INFORMATION

Statement of Claim filed: January 9, 1995

Claimant's Submission Agreement signed: December 27, 1994

Statement of Answer of Marketing One, Inc. filed: March 31, 1995

Respondent Marketing One Securities, Inc.'s Submission Agreement signed: February 14, 1995

HEARING INFORMATION

Pre-Hearing Conference Date(s)/Session(s):

October 17, 1995 (one session)

January 3, 1996 (one session)

Hearing Date(s)/Session(s):

October 25, 1995 (two sessions)
October 26, 1995 (two sessions)
January 4, 1996 (two sessions)
January 5, 1996 (two sessions)
January 22, 1996 (two sessions)

Hearing Location:

San Diego, California

CASE SUMMARY

Claimant alleged that he was a highly successful sales person for Marketing One, Inc., consistently performing at the top of the scale relative to the other sales personnel. Claimant further alleged wrongful termination and defamation with respect to his employment at Marketing One, Inc.

Respondents denied Claimant's allegations of wrongdoing and asserted affirmative defenses. In further support of Respondents' denials of the allegations of the Statement of Claim and the affirmative defenses asserted by Respondents, Respondents alleged that Marketing One was informed in a series of communications from North Island Federal Credit Union (North Island) that Claimant's work performance was unsatisfactory; Marketing One had a contractual relationship with North Island which, among other things, required Marketing One to replace any representatives who were unsatisfactory to North Island; and that the reasons for North Island's dissatisfaction with Claimant's performance were set forth in memos or correspondence to Claimant. Respondents further alleged that Claimant refused relocation to another available financial institution when he made it known to Marketing One that he did not desire to move from San Diego, California; and that Claimant also voluntarily quit subsequent employment and took himself out of the employment market by making plans to change his profession and seeking further school education.

RELIEF REQUESTED

Claimant requested damages of approximately \$500,000.00.

OTHER ISSUES CONSIDERED AND DECIDED

North Island Federal Credit Union is not a member of the National Association of Securities Dealers, Inc. (NASD) and did not voluntarily submit to NASD jurisdiction.

The parties stipulated to amend the title of this action to include Marketing One Securities, Inc. as an additional Respondent. This additional Respondent is the actual NASD member and Marketing One, Inc. is the parent company. Respondents consented to have both parties appear in this arbitration.

The parties have agreed that the Award in this matter may be executed in either 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 originals remain 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. Respondents Marketing One, Inc. and Marketing One Securities, Inc. are jointly and severally liable for and shall pay to Claimant the sum of \$138,120.00 in satisfaction of Claimant's claims.
2. Respondents Marketing One, Inc. and Marketing One Securities, Inc. are jointly and severally liable for and shall pay to Claimant the sum of \$500.00 as reimbursement of Claimant's filing fee.
3. The parties shall each bear their respective costs including attorney's fees.

FORUM FEES

Pursuant to Section 44(c) of the Code of Arbitration Procedure, the following forum fees are assessed: The NASD shall refund the \$750.00 hearing session deposit previously deposited by

the Claimant. Forum fees are assessed against Respondents Marketing One, Inc. and Marketing One Securities, Inc., jointly and severally, in the amount of \$8,100.00, calculated as follows: Two pre-hearing sessions times \$300.00/session plus ten hearing sessions times \$750.00/session.

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

ARBITRATORS

Name Public / Industry

Guenter S. Cohn, Esq.
Virginia H. Wertz, RHU
Lewis C. Brown

Public Arbitrator
Public Arbitrator
Industry Arbitrator

Concurring Arbitrators' Signatures

Guenter S. Cohn, Esq.

Virginia H. Wertz, RHU

Lewis C. Brown

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Date of Decision: _____

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Guenter S. Cohn, Esq.	Public Arbitrator
Virginia H. Wertz, RHU	Public Arbitrator
Lewis C. Brown	Industry Arbitrator

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