

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

PaineWebber, Inc.

95-00133

Name of Respondents

Angelo J. Mandarano

REPRESENTATION

For Claimant PaineWebber, Inc. ("Claimant"), appeared Scott S. Stechman, Esq. from the law firm of Smith Campbell & Paduano, located in New York, New York.

For Respondent Angelo J. Mandarano ("Respondent"), appeared Vince Reppert, Esq. from the law firm of Reppert & Kelly, located in Westfield, New Jersey.

CASE INFORMATION

The claimant filed the Statement of Claim on January 10, 1995.

Claimant PaineWebber, Inc.'s Submission Agreement was signed on January 5, 1995.

Statement of Answer was filed by Respondent Angelo J. Mandarano on March 15, 1995.

Respondent did not file an executed Submission Agreement.

HEARING INFORMATION

Pre-Hearing Conference: May 15, 1996 - 1 session.

Hearing Date/Session: May 20, 1996 - 1 session.

The hearings were held at the NASD offices located in New York, New York.

CASE SUMMARY

Claimant alleged that on or about November 24, 1993 it hired Respondent as an Investment Executive in its White Plains, New York office. Claimant further alleged that Respondent, in connection with his employment, received an advance from Claimant in the amount of \$89,000.00, and that Respondent signed a promissory note ("Note") to Claimant in that amount.

Claimant alleged that the Note provided that Respondent's indebtedness would be forgiven in five equal annual installments of \$17,800.00 each, provided that certain conditions were met and if he paid the taxes, but that if Respondent's employment with Claimant were terminated either voluntarily or involuntarily by Respondent for any reason whatsoever, or involuntarily for Cause, prior to the due date of the Note, then Claimant, at its option, may declare the Note immediately due and payable. Claimant further alleged that Respondent also signed a separate acknowledgement form admitting that he had received and read a separate explanation regarding this obligation to repay the unforgiven portion of the Note and the related payroll deductions. Claimant alleged that Respondent voluntarily resigned on July 14, 1994. Claimant further alleged that since Respondent's employment was terminated prior to the first anniversary of employment, no amount was forgiven on the note, leaving the full amount of the defaulted Note due and owing.

Respondent maintained that he resigned at the suggestion of his manager as he was advised he was going to be laid off. Respondent further maintained that his resignation saved Claimant from paying unemployment benefits. Respondent also alleged that he left his book of business and client base at PaineWebber and is no longer registered and has been unemployed since July of 1994. Respondent contended that he has made attempts to amicably resolve this matter but Claimant has not been receptive to his offers.

RELIEF REQUESTED

Claimant requested that it be awarded \$89,000.00 due pursuant to the Note signed by the Respondent, plus interest, reasonable attorneys' fees, costs and NASD filing costs.

Respondent requested that the claimant's Statement of Claim be dismissed and that all costs and Respondent's attorneys fees be assessed against Claimant.

OTHER ISSUES CONSIDERED AND DECIDED

1. Pursuant to Section 1 of the NASD Code of Arbitration Procedure (the "Code"), the arbitrators found subject matter jurisdiction over this entire controversy and specifically as it related to Respondent Angelo J. Mandarano.
2. The arbitrators found that Respondent was a person associated with a member of the NASD at the time this controversy arose. Consequently, the arbitrators found personal jurisdiction over Respondent pursuant to Section 12 of the Code.

3. The arbitrators found that the Statement of Claim was properly served upon Respondent pursuant to Section 25(a) of the Code. Consequently, the arbitrators found that Respondent was required to file with the NASD a Statement of Answer and Submission Agreement pursuant to Section 25(b) of the Code.
4. In accordance with Sections 21, 26, and 29 of the Code, the arbitrators found that Respondent was provided with "due notice" of the hearing in this matter by regular and certified mail. The arbitrators, therefore, determined to proceed with the hearing without Respondent whose absence was unexcused.

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. Respondent Angelo J. Mandarano be and hereby is liable to Claimant PaineWebber for the unpaid amount of the loan in the amount of \$86,645.24.
2. Respondent Angelo J. Mandarano be and hereby is liable to Claimant PaineWebber in the amount of \$17,088.43 for Claimant's attorneys' fees.
3. Claimant Angelo J. Mandarano be and hereby is liable to Claimant PaineWebber for interest in the amount of \$14,638.23.
4. All other claims be and hereby are denied.

FORUM FEES

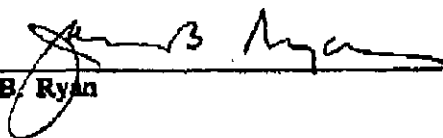
Pursuant to Section 44c of the Code of Arbitration Procedure, the arbitrators have determined that the NASD shall retain the \$500.000 non-refundable filing fee previously submitted by the Claimant and have assessed the following forum fees:

1 pre-session hearing	X	\$300	=	\$300.00
1 hearing session	X	\$600	=	\$600.00
Total owed to NASD			=	<u>\$900.00</u>

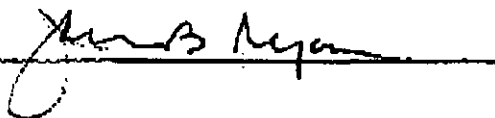
1. Claimant PaineWebber be and hereby is liable for the sum of \$450.00, representing one-half of the session fees assessed. Claimant previously deposited \$600.00 with the NASD, and, therefore, is entitled to a reimbursement of \$150.00 from the Respondent
2. Respondent Angelo J. Mandarano be and hereby is liable for the sum of \$450.00, representing one-half of the session fees assessed. Respondent shall pay \$300.00 to the NASD and \$150.00 to the Claimant.

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

Arbitrator's Signature
Name


John B. Ryan

I, John B. Ryan, do hereby affirm that this is my decision in the above-captioned matter.



Date of Decision: July 10, 1996

Arbitrator's Signature

Nmae

Judith R. MacDonald, Esq.

Judith R. MacDonald, Esq.

I, Judith R. MacDoanld, do hereby affirm that this is my decision in the above-captioned matter.

Judith R. MacDonald

Date of Decision: July 10, 1996

Arbitrator's Signature
Name

William Crowe, Jr.
William Crowe, Jr., Esq.

I, William Crowe, do hereby affirm that this is my decision in the above-captioned matter.

William Crowe, Jr.

Date of Decision: July 10, 1996