

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the matter of the Arbitration Between

Name of Claimant(s)

Merrill Lynch, Pierce, Fenner & Smith, Inc.

v.

NASD Arbitration

No.95-00407

Name of Respondent(s)

Ho Shun Hui

REPRESENTATION

For Claimant: Thomas L. Taylor, Esq.
Jones, Bell, Simpson & Abbott
Los Angeles, California

For Respondent: Geraldine M. Mele, Esq.
Los Angeles, California

CASE INFORMATION

Statement of Claim filed: October 19, 1994

Claimant's Submission Agreement signed: April 17, 1995

Statement of Answer and Counterclaim filed by Respondent: March 24, 1995

Respondent's Submission Agreement signed: March 27, 1995

Answer to Counterclaims and Amended Statement of Claim filed by Claimant: April 24, 1995

Respondent's Answer to Amended Statement of Claim: May 16, 1995

HEARING INFORMATION

Pre-Hearing Conference Date / Session: October 20, 1995 (1 session)

Hearing Date(s) / Session(s): October 23, 1995 (2 sessions)
 October 24, 1995 (2 sessions)
 October 25, 1995 (2 sessions)
 October 26, 1995 (2 sessions)
 October 27, 1995 (3 sessions)

Hearing Location: Los Angeles, California

CASE SUMMARY

Merrill Lynch ("Merrill") claimed that Respondent Ho Shun Hui ("Hui") executed a promissory note in the amount of \$54,000.00. Merrill further claimed that after his employment with Merrill was terminated, Hui failed or refused to pay the amount owed on the promissory note, constituting a breach of written contract. Merrill further claimed that Hui executed a "Financial Consultant Employment Agreement and Restrictive Covenants" and an "Agreement to Repay Costs of Training". Merrill alleged that Hui was obligated to repay Merrill the cost of his training.

Hui denied that Merrill was entitled to any damages and filed a counter-claim against Merrill. Hui claimed that Merrill wrongfully discharged Hui, in that Merrill breached an express or implied covenant to only discharge for good cause and the implied covenant of good faith and fair dealing. Hui also alleged breach of oral contract, fraud and misrepresentation. Hui further alleged that Merrill committed intentional and negligent infliction of emotional distress.

Merrill denied all of the allegations found in Hui's counter-claim.

RELIEF REQUESTED

I. Relief Requested re: Merrill Lynch's Claim:

Merrill Lynch requested damages on the first claim relating to the promissory note of \$54,000.00 plus interest at 5.75 percent per annum from November 12, 1993 to the date of the arbitration award. Merrill requested damages on the second claim relating to training costs of \$38,000.00 plus interest of the maximum legal rate from November 12, 1993 to the date of the arbitration award.

Merrill further requested an award of the costs and disbursements associated with the arbitration proceeding.

Hui requested that Merrill's claims be dismissed. Hui further requested reimbursement of the costs of the suit.

II. Relief Requested re: Hui's Counterclaim:

Hui requested an award of all actual, consequential and incidental damages according to proof, including but not limited to the value of his lost book of clients, past and future commissions, goodwill, bonuses, reliance damages, lost earnings and fringe benefits, together with prejudgment interest.

Hui further requested general damages in an amount not less than one million dollars, punitive damages, interest pursuant to Cal. Civil Code Section 3287(a), and an award of the costs and disbursements of this proceeding.

Merrill requested that Hui receive nothing by his counter-claim. Merrill further requested attorney's fees and costs associated with this arbitration matter.

OTHER ISSUES CONSIDERED AND DECIDED

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 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. Claimant and Counter-Respondent Merrill Lynch is awarded the sum of \$60,080.62 on its claim for breach of contract re: the promissory note.
2. Claimant and Counter-Respondent Merrill Lynch's claim for breach of contract re: training costs is denied in its entirety.
3. All of Respondent and Counter-Claimant Ho Shun Hui's counterclaims are denied in their entirety.
4. Each party shall be responsible for its/his own costs and expenses incurred in connection with this arbitration.

FORUM FEES

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

Forum fees shall be divided equally between the parties and are assessed as follows:

One pre-hearing conference @ \$300.00/session	=	\$	300.00
Eleven hearing sessions @ \$1,000.00/session	=	\$	11,000.00
Total Fees assessed	=	\$	11,300.00
Claimant's share (50%)	=	\$	5,650.00
Credit for hearing deposit	=	\$	600.00
Balance due	=	\$	5,050.00
Respondent's share (50%)	=	\$	5,650.00
Credit for hearing deposit	=	\$	1,000.00
Balance due	=	\$	4,650.00

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

ARBITRATORS

Name	Public / Industry
Herbert M. Schoenberg	Public Arbitrator
Leo B. Rotter	Industry Arbitrator
Edward Kamenir	Public Arbitrator

Concurring Arbitrators' Signatures

Herbert M. Schoenberg
Herbert M. Schoenberg

Leo B. Rotter

Edward Kamenir

Date of Decision: 11/21/1995

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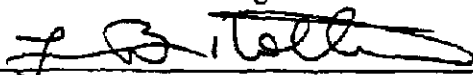
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