

## **AWARD**

### **NASD REGULATION, INC., OFFICE OF DISPUTE RESOLUTION**

In the Matter of the Arbitration Between

PaineWebber, Inc.

v.

Robert G. Linton

Arbitration No.  
95-00539

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### **REPRESENTATION OF PARTIES**

PaineWebber Inc. ("**Claimant**") was represented by Peter J. Bado, Esq., PaineWebber Inc., Los Angeles, California.

Robert G. Linton ("**Respondent**") represented himself pro se.

### **CASE INFORMATION**

Claimant's Statement of Claim was filed on or about January 30, 1995. Claimant's Submission Agreement was signed on January 24, 1995.

Respondent Robert G. Linton did not file an Answer to the allegations contained in the Statement of Claim and did not file a notarized submission agreement.

### **HEARING INFORMATION**

The hearing was held on the following dates in San Francisco:	August 23, 1996	1 session;
	March 12, 1997	1 session;
	April 1, 1997	1 session.

A pre-hearing conference was held on January 3, 1997.

### **CASE SUMMARY**

Claimant alleges that the Respondent violated both the terms of his Investment Executive Agreement and the terms of the promissory note which he signed at the beginning of his tenure with the Claimant. Claimant additionally seeks reimbursement for other miscellaneous monies owed by the Respondent.

Respondent did not submit a response to the allegations.

### **RELIEF REQUESTED**

Claimant requested in the Statement of Claim an award in the amount of \$87,721.97. Claimant also requested interest attorney's fees and costs. The amount sought by Claimant was amended in Declaration of Peter J. Bado to \$121,685.80, inclusive of interest, costs and attorney's fees.

### **OTHER ISSUES CONSIDERED & DECIDED**

Upon review of the file and the representations made by/on behalf of the Claimant, the undersigned arbitrators have determined that Respondent Robert Linton has been properly served with the Statement of Claim pursuant to §13 and §25 of the NASD Code of Arbitration Procedure (the "Code"). The undersigned arbitrators have also determined that Respondent Robert Linton had received due notice of the hearing as required under §26 of the Code and that arbitration of the matter would proceed pursuant to §29 of the Code.

Further, it was determined that Respondent Robert Linton did not file with the NASD a properly executed submission to arbitration but is required to submit to arbitration pursuant to §12 of the NASD Code of Arbitration Procedure and having appeared and testified at the hearing is bound by the determination of the arbitration panel on all issues submitted.

Attached to this award is the Order following the hearing on March 12, 1997 at which Respondent Robert Linton failed to appear.

The parties have agreed that a handwritten, signed Award may be entered. The parties have agreed to receive conformed copies of the award while the original remains on file with NASD Regulation, Inc., Office of Dispute Resolution.

### **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 is awarded and Respondent Robert G. Linton shall pay to Claimant the sum of \$120,000. This amount is inclusive of interest and attorney's fees as provided for by the terms of the promissory note.

### **FORUM FEES**

Forum fees are calculated at the rate of \$600 per hearing session and \$300 for each prehearing conference, if any. There were 3 sessions x \$600 plus 1 pre hearing conference x \$300 = \$2,100 in forum fees. Pursuant to §43(b) of the NASD Regulation, Inc., Office of Dispute Resolution Code

of Arbitration Procedure (the "Code"), a hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less. Pursuant to § 43(c) of the Code of Arbitration Procedure, the parties shall divide the forum fees 50%-50%, with the claimant bearing 50%, and the respondent bearing 50%.

Total Fees	
3 Hearing Sessions @ \$600.00 =	\$1800.00
1 Pre Hearing Conf. @ \$300.00 =	\$ 300.00
Total	<u>\$2100.00</u>

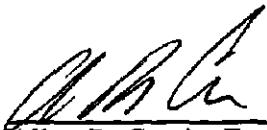
Claimant's 1/2 share	\$1050.00
Claimant's credit for deposit	<u>\$ 600.00</u>
Claimant's balance	\$ 450.00

Respondent's 1/2 share	<u>\$1050.00</u>
Respondent's Balance	\$1050.00

Pursuant to §43(c) of the Code, NASD Regulation, Inc. shall **retain** the non-refundable filing fee in the amount of \$500 and shall **retain** as forum fees the hearing session deposit in the amount of \$600 previously deposited with NASD Regulation, Inc. by the Claimant PaineWebber Inc..

Pursuant to §45 of the Code, the NASD shall retain the member surcharge fee in the amount of \$300 previously paid by PaineWebber, Inc.

**Fees are payable to the NASD, Regulation, Inc.**

  
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Allan B. Currie, Esq.  
Industry Arbitrator, Presiding Chair

Dated:

4/15/97

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Linda L. Blackwell  
Industry Arbitrator

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Edgar N. Stone  
Industry Arbitrator

Date served: 4/22/1997

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Dated:

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Allan B. Currie, Esq.  
Industry Arbitrator, Presiding Chair

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*Linda L. Blackwell*  
Linda L. Blackwell  
Industry Arbitrator

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Industry Arbitrator, Presiding Chair

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Linda L. Blackwell  
Industry Arbitrator

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Edgar N. Stone  
Industry Arbitrator

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4/17/96

Date served: 4/22/1997

## ORDER

**NASD, Regulation, Inc.,  
Office of Dispute Resolution**

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In the Matter of the Arbitration Between

PaineWebber, Inc.

Claimant

NASD Regulation, Inc.  
No. 95-00539

v.

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Respondent

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The panel in the above referenced case has ordered and granted Claimant's request to allow the presentation of the Claimant's case and the introduction of Claimant's evidence at the hearing scheduled for March 12, 1997.

It is further ordered that a hearing be scheduled for April 1, 1997 at 9:00 AM at a location to be provided at a later date by the NASD Regulation. At the hearing on April 1, 1997 Mr. Linton will be allowed to present a defense or rebut the allegations against him.

Any motions the either party wishes to file prior to the April 1, 1997 hearing must be filed no later than March 19, 1997. Any responses to the motions must be filed no later than March 26, 1997.

Allan Bruce Currie  
Industry Arbitrator, Chairman

Linda L. Blackwell  
Industry Arbitrator

Edgar N. Stone  
Industry Arbitrator

Date served: 4/22/1997