

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant
David Walton Matthews

Case No: 95-00751

Name of Respondent
Stein, Shore Securities successor in interest to Lifeco
Securities Corp.

REPRESENTATION

For Claimant, David Walton Matthews ("Matthews"):
Elsie C. Turner, Esq., of Maitland, Florida

For Respondent, Stien, Shore Securities ("Stein"):
Delmer C. Gowing III, Esq., of Hertz, Schram & Saretsky in West
Palm Beach, Florida

CASE INFORMATION

Statement of Claim filed: February 13, 1995
Claimant's Submission Agreement signed: February 10, 1995

Respondents Statement of Answer filed: April 13, 1995
Respondents Submission Agreement signed: May 2, 1995 by Barry
Stein, on behalf of Stein, Shore Securities

HEARING INFORMATION

On September 6 and 7, and October 28, 1995, in Ft. Lauderdale,
Florida, hearings lasting 8 sessions were conducted.

CASE SUMMARY

Claimant alleged that respondent had offered claimant an employment contract. Respondent did not manifest any behavior that would lead Claimant to believe that the contract had not been agreed to. The result of this behavior was that claimant had been induced to rely on the existence of a valid contract. Claimant believes that at all times relevant Barry Stein had the apparent authority to bind the company to the terms of the contract. Claimant also asserts that at no time did Claimant engage in any misconduct, that would justify the termination of his employment.

Respondent, denied all allegations of wrongdoing and alleged that Claimant has failed to prove that the contract which does contain a termination at will clause was modified in accordance with a clause that states, "Any modifications to this Agreement requires a written agreement executed by both LIFC and the registered Representative to be effective." Further Respondent states that Claimant either

resigned or was terminated for cause.

Respondent filed a counterclaim and alleged that Claimant had breached the contract and failed to perform his duties with due diligence resulting in damages to the company.

RELIEF REQUESTED

Claimant requested damages in the amount of \$97,750.00 plus interest, costs of this action, and reasonable attorney's fees.

Respondent requested damages in the amount of \$5,900.50 plus attorney's fees and costs of arbitration.

OTHER ISSUES CONSIDERED AND DECIDED

(1) The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award be entered. In either case, the parties have agreed to receive conformed copies of the Award while the original(s) remain on file with the NASD.

AWARD

After considering the pleadings, the testimony, the evidence presented at the hearing, and post-hearing submissions, the arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

- (1) Respondent, Stein, Shore Securities, are found not liable and, therefore, all claims against them are hereby dismissed.
- (2) Claimants' requests for attorney's fees and costs are denied.
- (3) Respondent's requests for attorney's fees has been granted. The amount to be determined by a court of competent jurisdiction.
- (4) Respondent's counterclaim has been dismissed.

OTHER COSTS

- (1) The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding.

FORUM FEES

- (1) Pursuant to Section 44(c) of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of \$4800.00. (8 sessions x \$600).
- (2) Claimant is hereby assessed \$2,400. For which the NASD shall retain the \$600.00 previously deposited in partial satisfaction thereof leaving a balance due to the NASD of \$1800.00.
- (3) The NASD shall retain the non-refundable filing fee of \$500.00 paid by the Claimants.
- (4) The Respondent is hereby assessed \$2,400. Leaving a balance due of \$2400.

(5) The NASD shall retain the section 45 surcharge of \$300.00.

(6) The Respondent is hereby assessed \$500 for the non-refundable filing fee for the counterclaim.

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

Concurring Arbitrator(s) Signature(s)

Date of Signature

/s/
Steven A. Hurst

/s/
Edward S. Burnstein

/s/
Karen Z. Fischer

Dissenting Arbitrator(s) Signature

Date of Decision: December 22, 1995