

NASD REGULATION, INC. AWARD

NASD REGULATION, INC.

In the Matter of the Arbitration Between

Name of Claimant

Reich & Co., Inc.

95-00798

Name of Respondent

Robert Benedickson

REPRESENTATION

For Reich & Co., Inc. ("Claimant") appeared Eric J. Shames, Esq. of Reich & Co., Inc., located in New York, New York and Theodore Krebsbach, Esq. of the law firm of Kittay, Gold & Krebsbach located in White Plains, New York.

For Robert Benedickson ("Respondent") appeared Louis A. Rosen a sole practioner located in Freehold, New Jersey.

CASE INFORMATION

Statement of Claim was filed on: February 13, 1995.

Claimant's Submission Agreement was signed on: February 28, 1995.

Respondent Statement of Answer filed on May 9, 1996.

Respondent's Submission Agreement was signed on: June 6, 1995.

HEARING INFORMATION

Hearing Date/Sessions:	December 6, 1996	--	1 session
	January 3, 1997	--	1 session

The hearing was held at the offices of NASD Regulation, Inc. located in New York, New York.

CASE SUMMARY

Claimant alleged that in accordance with the written employment agreement (the "Agreement") dated May 4, 1993, between Claimant and Respondent, Claimant compensated Respondent by payments in excess of its standard compensation structure. Claimant alleged that Respondent was obligated to repay such excess sums in the event of the voluntary termination of his employment within 30 months of the date of the Agreement.

Claimant alleged that Respondent was to receive specified payouts predicated upon his gross dealer commission ("GDC"). Claimants alleged that all sums paid to Respondent in excess of 55% of GDC payout were to be treated as loans, to be repaid in full in the event that Respondent voluntarily terminated his employment within thirty (30) months of the date of the Agreement.

Claimant alleged that Respondent terminated his employment in or about June, 1994 and that at that time Claimant had paid Respondent \$40,973.20 in excess of commissions and \$3,000.00 as an advance repayable in accordance with the terms of the Agreement. Claimant alleged that pursuant to the Agreement Respondent owed Claimant the sum of \$43,973.00 upon termination of his employment with Claimant. Claimant alleged that Respondent has failed and refused to repay Claimant the sum due pursuant to the Agreement.

Respondent maintained that he was lied to in regard to the financial stability and staying power of the Claimant. Respondent maintained Claimant guaranteed that he would be on the fast track to a management position with the company. Respondent maintained that, as per his employment agreement, Claimant was to receive an allocation of not less than 15,000 shares of each of the Claimant's next three deals, including a deal with International Pizza, which was promoted by Claimant's management as a "can't miss, home run." Respondent maintained that Claimant represented that there were many buyers for International Pizza stock.

Respondent maintained that he indicated for approximately 30,000 shares of International Pizza. Claimant further maintained that, as per his employment agreement, he received 15,000 shares, and did the balance of his buying in the after market. Respondent maintained that the stock went from \$6 to \$1 1/4 in the months that followed. Respondent further maintained that the complete and absolute failure of International Pizza had a devastating affect on his ability to do business. In addition, Respondent maintained that he never received an allocation of shares while working for Claimant.

Claimant maintained that after the International Pizza deal failed production in the office suffered. Respondent maintained that Claimant failed as a result of mismanagement. Respondent maintained that after Reich was "taken over" by Fahnestock he was no longer in line for a management position but rather an unknown average producer and that the office environment became such that he could no longer remain with Claimant.

RELIEF REQUESTED

Claimant seeks to recover \$43,973.20, together with interest, attorneys fees, and costs.

Respondent requested that all claims be dismissed in their entirety.

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:

1. The Respondent, Robert Benedickson, is liable and shall pay claimant the sum of \$37,500.00;
2. Each party shall bear their own costs, including attorneys fees; and,
3. All other requests for relief are denied.

FORUM FEES

Pursuant to Rule 10205(c) of the Code of Arbitration Procedure, the arbitrators have determined that the NASD shall retain the \$500.00 filing fee previously deposited by Claimant and has assessed the following forum fees:

Total Forum Fees: \$1,200.00 (2 Sessions x \$600)

1. Claimant, Reich & Co., Inc., is assessed the sum of \$600.00 representing one-half of the total forum fees due, less \$600.00 previously deposited, leaving \$0.00 due.
2. Respondent, Robert Benedickson, is assessed \$600.00 representing one-half of the total forum fees due. Respondent, Robert Benedickson, is liable and shall pay to NASD Regulation, Inc. the sum of \$600.00.

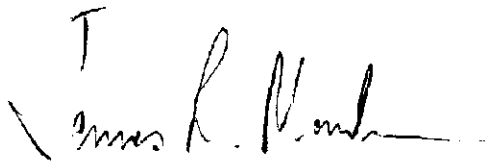
Fees are payable to NASD Regulation, Inc.

ARBITRATORS' SIGNATURES

I, **William Crowe, Jr., Esq.**, do hereby affirm, pursuant to Article 7505 of the Civil Practice Law and Rules, that I am the individual described herein, and who executed this instrument which is my decision in the above-referenced matter.

William Crowe, Jr., Esq.
Industry Chairperson

I, **James R. Madan**, do hereby affirm, pursuant to Article 7505 of the Civil Practice Law and Rules, that I am the individual described herein, and who executed this instrument which is my decision in the above-referenced matter.



James R. Madan
Industry Panelist

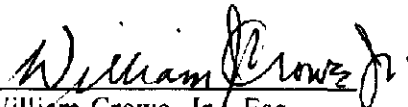
I, **Donald P. Delano**, do hereby affirm, pursuant to Article 7505 of the Civil Practice Law and Rules, that I am the individual described herein, and who executed this instrument which is my decision in the above-referenced matter.

Donald P. Delano
Industry Panelist

Date of Decision: June 4, 1997

ARBITRATORS' SIGNATURES

I, **William Crowe, Jr., Esq.**, do hereby affirm, pursuant to Article 7505 of the Civil Practice Law and Rules, that I am the individual described herein, and who executed this instrument which is my decision in the above-referenced matter.


William Crowe, Jr., Esq.
Industry Chairperson

I, **James R. Madan**, do hereby affirm, pursuant to Article 7505 of the Civil Practice Law and Rules, that I am the individual described herein, and who executed this instrument which is my decision in the above-referenced matter.

James R. Madan
Industry Panelist

I, **Donald P. Delano**, do hereby affirm, pursuant to Article 7505 of the Civil Practice Law and Rules, that I am the individual described herein, and who executed this instrument which is my decision in the above-referenced matter.

Donald P. Delano
Industry Panelist

Date of Decision: June 4, 1997

ARBITRATORS' SIGNATURES

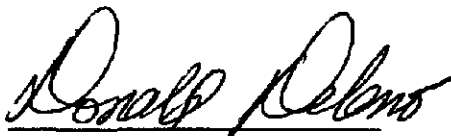
I, **William Crowe, Jr., Esq.**, do hereby affirm, pursuant to Article 7505 of the Civil Practice Law and Rules, that I am the individual described herein, and who executed this instrument which is my decision in the above-referenced matter.

William Crowe, Jr., Esq.
Industry Chairperson

I, **James R. Madan**, do hereby affirm, pursuant to Article 7505 of the Civil Practice Law and Rules, that I am the individual described herein, and who executed this instrument which is my decision in the above-referenced matter.

James R. Madan
Industry Panelist

I, **Donald P. Delano**, do hereby affirm, pursuant to Article 7505 of the Civil Practice Law and Rules, that I am the individual described herein, and who executed this instrument which is my decision in the above-referenced matter.



Donald P. Delano
Industry Panelist

Date of Decision: June 4, 1997