

6/76  
7606115  
N.A.S.D. AWARD

**NATIONAL ASSOCIATION OF SECURITIES DEALERS**

In the Matter of the Arbitration Between

Name of Claimant(s)

© National Association of  
Securities Dealers, Inc.

PaineWebber, Inc.

All Rights Reserved

95-00894

Name of Respondent(s)

Robert A. Magnan

**REPRESENTATION**

For Claimant, PaineWebber, Inc. ("PaineWebber"): Christopher L. Griffin, Esq. of Annis, Mitchell, Cockey, Edwards & Roe of Tampa, Florida.

Respondent, Robert A. Magnan ("Magnan") was pro se.

**CASE INFORMATION**

Statement of Claim filed: February 17, 1995.

Claimant's Submission Agreement signed on: March 13, 1995 by Jay F. Frascella on behalf of PaineWebber.

Statement of Answer/Counterclaim filed by Respondent on: February 23, 1996.

Respondent failed to file a Submission Agreement as required by Sections 8 and 25 of the Code.

**HEARING INFORMATION**

On February 8, 1996 in-Tampa, Florida, a hearing lasting 1 session was conducted. On May 16, 1996 in Tampa, Florida, a hearing lasting 2 sessions was conducted.

**CASE SUMMARY**

Claimant, alleged that on or about December 9, 1992, Respondent Magnan, executed and delivered to PaineWebber a promissory note in the principle amount of \$133,661.00. Magnan is in default under this promissory note for failing to make the required payments. Claimant further alleges that under the promissory note it had the option of maturing the whole indebtedness, and it exercised that option on May 16, 1994. Claimant alleges it is owed the principle amount of \$132,161 .00 plus interest.

9606145

Respondents filed a Counterclaim in response to Claimant's Statement of Claim. The **Panel struck** Respondents Counterclaim.

### **RELIEF REQUESTED**

Claimant requested damages in the amount of \$132,161 .00 (unpaid principle on the promissory note), with interest at the applicable rate and all other amounts due pursuant to the promissory note, costs, attorney's fees, and such other relief as the panel deems proper.

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

The parties have agreed that the Award in this matter may be executed in 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(s) remain on file with the **NASD**.

The Panel entered an order striking Respondent's Counterclaim.

### **AWARD**

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

1. Respondent **Magnan** is found liable and shall pay to Claimant the sum of **\$35,500.00** inclusive of interest.
2. Respondent Magnan is also found liable for reasonable attorney's fees pursuant to Chapter 517 **Fla.** Stat. The panel leaves the amount of such fees to be determined by an appropriate court of competent jurisdiction.
3. Claimant's request for costs is denied.

### **OTHER COSTS**

Other than the forum fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding.

**FORUM FEES**

760645

Pursuant to Section 44c of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of \$ 2,250.00 (3 sessions x \$750.00).

1. Claimant is hereby assessed \$1,125.00 for which the NASD shall retain the \$750.00 previously deposited as a hearing session deposit in partial satisfaction thereof, leaving a balance due to the NASD of \$375.00.
2. Respondent is hereby assessed forum fees in the amount of \$1,125 .00 payable to the NASD, Inc.
3. The NASD shall retain the non-refundable filing fee of \$500.00 paid by the Claimant
4. Claimant is also assessed the member surcharge of \$200.00 which should have been paid at the time the claim was initially filed.

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

**Concurring Arbitrators' Signatures**

**Name**

/s/

**Kathleen Baggett Church**

**Industry/Chair**

/s/

**James DeRiso**

**Industry**

/s/

**Peter F. Crowell**

**Industry**

**Date of Decision: June 19, 1996**