

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

**NASD Arbitration
No. 95-01394**

Luther, Smith & Small, Inc. and Michael Luther

REPRESENTATION

For Claimant:

Jeffry M. Bauer, Esq.
Grosse Pointe, Michigan

For Respondent: **Audwin Carey Spence**
Inglewood, California

CASE INFORMATION

Statement of Claim filed: March 20, 1995

Claimant's Submission Agreement signed: **March 3, 1995**

Joint Statement of Answer and Counter-Claim filed by Respondents: May 19, 1995

Answer to Respondents' Counter-Claim filed by Claimant: August 14, 1995

Respondents' Submission Agreements signed: April 29, 1995

HEARING INFORMATION

Pre-Hearing Conference Date / Session: May 6, 1996 (1 session)

Hearing Dates / Sessions: August 6, 1996 (2 sessions)
August 7, 1996 (2 sessions)
August 8, 1996 (2 sessions)
August 9, 1996 (2 sessions)

Hearing Location: Los Angeles, California

CASE SUMMARY

Claimant alleged Respondents committed fraud, negligence and breach of contract. Specifically, Claimant alleged Respondents failed to comply with the terms of a contract entered into between Claimant and Respondents, which resulted in Claimant sustaining compensation and reimbursement losses in the amount of \$90,177.92. In addition, Claimant denied Respondents' Counter-Claim in its entirety.

Respondents denied Claimant's claim in its entirety. Additionally, Respondents claimed that Claimant continued leasing office space under Respondents' name even after Claimant resigned from Respondents. As such, Respondents alleged they suffered damages in the amount of \$6,214.41 in past due rent and fees as a result of Claimant's fraudulent conduct.

RELIEF REQUESTED

Claimant sought compensatory damages in the amount of \$90,177.92, interest, costs, and attorneys' fees, as well as dismissal of Respondents' Counter-Claim in its entirety.

Respondents sought dismissal of Claimant's Statement of Claim, \$6,214.41 in compensatory damages, interest, punitive damages, costs and attorneys' fees.

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's claim is denied in its entirety.
2. Respondents' counter-claim is denied in its entirety.
3. Each side shall bear its own costs and attorneys' fees.
4. Forum Fees are assessed equally between Claimant and Respondents.

FORUM FEES

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

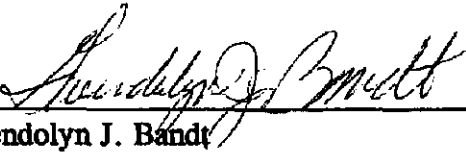
One (1) Pre-Hearing Conference @ \$300.00 / Session	=	\$300.00
<u>Eight (8) Hearing Sessions @ \$600.00 / Session</u>	=	<u>\$4,800.00</u>
Total Forum Fees Assessed	=	\$5,100.00
 Claimant's One-Half Share	=	 \$2,550.00
<u>Credit for Hearing Session Deposit</u>	=	<u>\$600.00</u>
Claimant's Balance Due	=	\$1,950.00
 Respondents' One-Half Share	=	 \$2,550.00
Respondents' Postponement Fee Due	=	\$600.00
<u>Credit for Hearing Session Deposit</u>	=	<u>\$600.00</u>
Respondents' Balance Due	=	\$2,550.00

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

ARBITRATORS

<u>Name</u>	<u>Public / Industry</u>
Gwendolyn J. Bandt	Industry Panelist
Jeffrey E. Skogsbergh	Industry Panelist
Richard C. Ramos	Industry Panelist

Concurring Arbitrators' Signatures



Gwendolyn J. Bandt

Jeffrey E. Skogsbergh

Richard C. Ramos

Date of Decision: _____

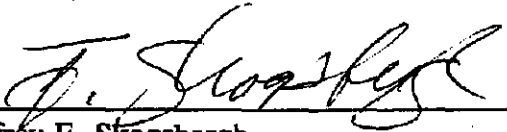
Date of Service: _____

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Gwendolyn J. Bandt



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Concurring Arbitrators' Signatures

Gwendolyn J. Bandt

Jeffrey E. Skogsbergh



Richard C. Ramos

Date of Decision:

August 9, 1996

Date of Service:

9/4/96