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**N.A.S.D. AWARD**

**NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.**

In the matter of the Arbitration Between

**Name of Claimant**

PaineWebber, Inc.

NASD Arbitration

No.95-01396

**Name of Respondent**

Fred J. Kaping

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**REPRESENTATION**

For Claimant: Catherine Pratt, Esq., PaineWebber, Inc., Los Angeles, California

For Respondent: Respondent did not enter an appearance.

**CASE INFORMATION**

Statement of Claim filed: March 20, 1995

Claimant's Submission Agreement signed: March 12, 1995.

Respondent did not file a submission agreement or an Answer.

**HEARING INFORMATION**

The hearing was held in San Francisco, California, on November 15, 1995, and lasted one session.

**CASE SUMMARY**

Claimant alleged Respondent failed to meet a margin maintenance call, causing Claimant to sell out Respondent's position in Platinum Software Corp., leaving an unsecured debit balance of \$7,808.39. Claimant further alleged Respondent breached the terms of the Client Agreement between the parties by failing to pay the debit balance.

Respondent did not answer.

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**RELIEF REQUESTED**

Claimant requested damages of \$8,093.93 (including margin interest charges), plus interest, costs of arbitration and attorney's fees.

**OTHER ISSUES CONSIDERED AND DECIDED**

The panel determined jurisdiction over Respondent based on the agreement to arbitrate disputes contained in the Client Agreement between the parties. The panel took judicial notice of the NASD file showing proof of notification of the claim, the hearing date and place, and the failure of Respondent to answer the claim.

**AWARD**

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:


1. Respondent is liable for and shall pay to Claimant the sum of \$7,808.39, plus interest of 6% per annum from January 27, 1994, until paid.
2. Respondent shall reimburse Claimant the sum of \$800 for the filing fee and hearing session deposit paid by Claimant.
3. The claim for attorney's fees is denied.

**FORUM FEES**

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the NASD shall retain the \$500 non-refundable filing fee paid by Claimant. The \$300 hearing session deposit shall be retained as an assessment of forum fees for one session. Claimant's \$75 overpayment shall be refunded.

**ARBITRATOR**

<u>Name</u>	<u>Public / Industry</u>
Bette Roth	Public Chairperson



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