

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of Arbitration Between

Name of Claimant

Eric R. Thornlow,

95-01738

Name of Respondent

NationsSecurities, Inc.

REPRESENTATION

For Claimant, Matthew A. Henderson, Esq., from the law firm of Henderson, Brandt & Vieth, Spartanburg, SC.

For Respondent, Cory Hohnbaum, Esq., of Counsel to the law firm of Kennedy, Covington, Iobdell & Hickman, L.L.P., Charlotte, NC.

CASE INFORMATION

Statement of Claim filed: April 4, 1995.

Claimant's Submission Agreement signed on: April 4, 1995.

Statement of Answer filed: June 26, 1995.

Respondent's Submission Agreement signed on: June 1, 1995.

HEARING INFORMATION

Hearing dates/sessions: February 13, 1996 2 Sessions

The hearings were held at the Hyatt Hotel, Charlotte, NC

CASE SUMMARY

Claimant alleged that prior to June 1993 he was employed by NationsBank as a Securities Account Executive. Claimant further alleged that in June 1993 NationsBank and Dean Witter entered into a joint venture which resulted in the formation of Respondent, NationsSecurities, Inc.

Claimant alleged that from June 1993 through February 28, 1994, he was a licensed, registered Account Representative of NationsSecurities, from whom Claimant alleged, he was due substantial compensation which was withheld by Respondent.

Claimant alleged NationsSecurities instituted a "Transition Compensation" bonus to soften the impact of the joint venture which was to be paid in addition to the regular payout. Specifically, Claimant alleged that under this "Transition Compensation" bonus he was due an additional 3% of his production for the first 6 months the new company was operating, an additional 2% for the next 6 months of production, and an additional 1% for the following 6 months.

Claimant alleged he was due \$15,036.04 under this new system; however, he was not paid since Respondent maintained he was precluded from receiving the bonus because he had not been continuously employed with NationsSecurities for the one and one-half years the bonus required. Claimant further alleged he had not been notified of this term; therefore, he should not be subject to it.

Claimant alleged NationsSecurities failed to fully pay him the 1994 commission he had earned. Claimant alleged Respondent NationsSecurities classified the last week of February as March production, resulting in a 32% payout rate for the year as distinguished from the 36% payout rate he had earned in both January and February. Specifically, Claimant alleged this resulted in a deficiency of \$4,982.47.

Claimant alleged that pursuant to the joint venture the annual bonus normally received under the old NationsBank corporate structure was to be deferred for four and one-half years under the new NationsSecurities regime, drawing no interest during the deferral period. Claimant further alleged that in 1994 NationsSecurities paid this deferred bonus in full; however, Claimant alleged he was still owed the deferred bonus of \$9,247.00 from 1993.

Respondent maintained there existed a longstanding and well known company policy requiring continuous employment at the time an award or bonus was to be paid to an employee. Respondent further maintained that the absence of written disclosure regarding the requirement continuous employment for a period of one and one-half years in order to receive the "Transition Compensation" bonus should not be determinative in light of these policies.

In addition, Respondent maintained that in the event an investment officer leaves NationsSecurities prior to the end of a year, NationsSecurities determines that employee's payout

rate based on that investment officer's year-to-date production. Respondent further maintained Claimant was entitled to a 32% payout rate based on his 1994 production; however, through February 1994 Claimant had been paid at a 36% payout rate, resulting in overpayment.

Respondent maintained Claimant was not entitled to the deferred compensation because he had not been continually employed at Nations Securities for the four and one-half years as was required.

RELIEF REQUESTED

Claimant requested payment of the sum of \$29,265.51 due from Nations Securities, specifically Claimant requested:

1. \$15,036.04 representing the "Transitional Compensation" bonus;
2. \$4,982.47 representing commission for production during the last week of February 1994 at a 36% payout rate; and,
3. \$9,247.00 representing the Deferred Compensation for 1993

Respondent requested that all claims be dismissed.

OTHER ISSUES CONSIDERED AND 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 originals remain 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. Respondent, Nations Securities, is liable and shall pay to Claimant, Eric R. Thornlow, for the sum of \$24,283.00; and,
2. The parties shall bear their respective costs, including attorney's fees.

FORUM FEES

Pursuant to Section 44(c) of the Code of Arbitration Procedure, the arbitrators have assessed the following forum fees:

Hearing Session Fees (2 x \$600.00) = \$ 1,200.00

Total Forum Fees: \$ 1,200.00

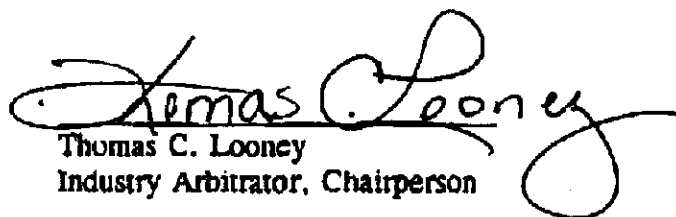
1. Respondent, NationsSecurities, Inc., is assessed the sum of \$600.00, representing one half of the total forum fees due. Respondent is liable and shall pay to the NASD the sum of \$600.00.
2. Claimant, Eric R. Thornlow, is assessed \$600.00, representing one-half the total forum fees due, minus the \$600.00 hearing session deposit paid, leaving \$0.00 due.

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

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ARBITRATORS' SIGNATURES


Thomas C. Looney
Industry Arbitrator, Chairperson

James R. Shields
Industry Arbitrator

John W. Rader, Sr.
Industry Arbitrator

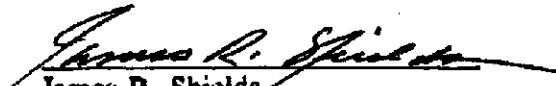
Date of decision May 15, 1996

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