

NASD AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

**PaineWebber Incorporated,
Claimant,**

v.

No. 95-02077

**Raymond Gans,
Respondents.**

REPRESENTATION OF PARTIES

PaineWebber Incorporated ("Claimant") was represented by Lisa Catalano Tillem, Esq., of PaineWebber Incorporated, Weehawken, New Jersey.

Raymond Gans ("Respondent") appeared on his own behalf.

CASE INFORMATION

Claimant's Statement of Claim was filed on or about April 28, 1995. Claimant's Submission Agreement was signed on April 28, 1995.

Respondent's Statement of Answer was filed on or about June 20, 1995. Respondent's Submission Agreement was signed on June 20, 1995.

HEARING INFORMATION

The hearing was held on February 8, 1996 in Kansas City, Missouri for a total of one (1) session.

CASE SUMMARY

Claimant stated that in connection with Respondent's employment, on or about August 12, 1991, Claimant advanced Respondent the sum of \$7,000 and Respondent signed a Promissory Note ("Note 3412"). Claimant further stated that the note would be forgiven in five equal annual installments, but that if Respondent's employment was terminated prior to the due date of Note 3412, then Claimant could, at its option, declare Note 3412 immediately due and owing. Additionally, in connection with Respondent's employment, on or about December 22, 1992, claimant advanced respondent the sum of \$7,240 and respondent signed a second Promissory Note ("Note 4103") to Claimant in that amount. Note 4103 contained the same provisions as Note 3142 set forth above.

On October 14, 1994, Respondent voluntarily resigned from employment with Claimant. Respondent's termination triggered a defaulted balance of 46,483.07 on Notes 3412 and 4103. Lastly, Claimant stated that it attempted, unsuccessfully, to resolve this dispute with Respondent, who had refused and failed to pay his debt.

Respondent denied the allegations set forth in the Statement of Claim. Respondents specifically stated that: Claimant had asked him to contact his clients and convince them to buy something in a period when he believed that most of his clients should sit tight with their investments; Claimant was pressuring him to have his clients make changes in their portfolios during a period when his production was down; he did not want to contact his clients to make changes in their portfolios just for the sake of his production; and Claimant did not uphold their part of the oral and verbal agreement.

RELIEF REQUESTED

Claimant requested an award in the amount of \$6,483.07, plus interest, together with reasonable attorneys' fees, costs and NASD filing costs, as expressly allowed for in the Notes.

Respondent requested that the claims asserted against him be denied.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that a handwritten, signed Award may be entered. 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 and the post-hearing submissions, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

Raymond Gans is liable for, and shall pay to PaineWebber Incorporated the sum of \$7,393.56, plus costs of this proceeding in the amount of \$900.00 as satisfaction of its claims made herein.

FORUM FEES

Forum fees are calculated at the rate of \$300 per hearing session and \$300 for each pre-hearing conference, if any. There was one (1) session x \$300 = \$300 in forum fees. Pursuant to §44(b) of the NASD Code of Arbitration Procedure (the "Code"), a hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less.

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Pursuant to §44(c) of the Code, the NASD shall retain the non-refundable filing fee in the amount of \$500 and shall retain as forum fees the hearing session deposit in the amount of \$300 previously deposited with the NASD by the Claimant.

Pursuant to §45 of the Code, the NASD shall retain the member surcharge fee in the amount of \$100 previously paid by the Claimant.

Dated:

James S. Allen, Jr.

s/s

February 9, 1996

James S. Allen, Jr.

Industry Arbitrator, Presiding Chair