

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Dean Witter Reynolds, Inc.

95-03422

Name of Respondent

Jean Pierre Russoniello

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**REPRESENTATION**

For Claimant, Dean Witter Reynolds Inc. ("Dean Witter"): Bradford D. Kaufman, Esq. and Anne W. Tennant of Steel Hector & Davis, West Palm Beach, Florida.

For Respondent, Jean Pierre Russoniello ("Russoniello"): pro se.

**CASE INFORMATION**

Statement of Claim filed: 7/17/95.

Claimant's Submission Agreement/Corporate Acknowledgement signed on: 7/10/95 by Erica Bunin on behalf of her firm.

Respondent did not file a Statement of Answer.

Respondent did not file an executed Submission Agreement as required under Sections 12 and 12 of the Code of Arbitration Procedure.

**CASE SUMMARY**

Claimant alleged that Respondent engaged in fraudulent representations to them with the intent to willfully and maliciously abuse the privilege of his Active Assets Account for financial gain. Moreover, Claimant alleged that Respondent made purchases with and took cash advances against his Active Assets Account resulting in an unsecured debit balance; that Respondent has failed and continues to refuse to satisfy the unsecured debit balance and as a result Dean Witter has been damaged.

### **RELIEF REQUESTED**

Claimant requested that an Award be entered against Respondent that he is liable for \$8,227.73 plus interest at the legal rate from the date the debt was incurred to the date of the arbitration award, plus attorney's fees and costs incurred by Claimant, and any other relief as the arbitrator deems just and proper.

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

This case was originally scheduled for hearing on March 11, 1996. At the Request of the Claimant and by agreement of the Arbitrator, the matter was decided by the Arbitrator upon the pleadings and the documentary evidence submitted by the Claimant. The Respondent, Jean Pierre Russoniello, never appeared in this matter nor did he file a Statement of Answer and executed Submission Agreement as required by the Code of Arbitration Procedure. Jurisdiction exists pursuant to Section 12 of the NASD Code of Arbitration Procedure. Based upon the evidence submitted in Arbitrator's Exhibit No. 1 and the Affidavit of Service provided by Claimant, the Arbitrator proceeded with the matter.

### **AWARD**

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

1. Respondent, Russoniello, is found liable and shall pay to the Claimant the amount of \$8,350.57 including interest.
2. Claimant's request for attorney's fees is denied.
3. All other claims are hereby denied.

### **OTHER COSTS**

The parties shall each bear all costs and expenses incurred by them in connection with this proceeding.

### **FORUM FEES**

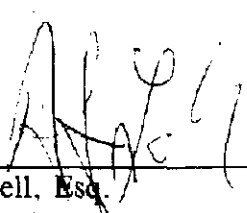
Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Arbitrator has assessed Forum Fees in the amount of \$75.00.

1. Respondent, Russoniello, is hereby assessed Forum Fees in the amount of \$75.00 payable directly to the Claimant.

2. The NASD shall retain \$75.00 of the \$300.00 previously deposited by the Claimant and the Claimant shall be refunded the remaining \$225.00.
3. The NASD shall retain the \$100.00 member surcharge paid by the Claimant.
4. The NASD shall retain the non-refundable filing fee of \$500.00 paid by the Claimant.

**ARBITRATOR**

**Arbitrator's Signature**

  
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Arthur J. Leibell, Esq.  
(Sole Public Arbitrator)

Date of Decision: August 8, 1996