

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

PaineWebber, Inc.

95-03953

Name of Respondent

Michael Novielli

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on August 16, 1995, Claimant PaineWebber, Inc. ("Claimant"), through its representative and in-house counsel, Evan Charkes, Esq., alleged that Respondent Michael Novielli ("Respondent"), a former employee of Claimant, signed an employment contract that provided that in the event of termination by resignation, within three years of commencing employment, Respondent shall pay Claimant for Respondent's training costs and expenses. Claimant further alleged that Respondent has breached the contract because he refused to pay the \$5,379.18 balance which included credit for thirty months of employment. Claimant contended that due to Respondent's non-compliance with the employment agreement, it has suffered a loss for which the Respondent should be held liable.

Respondent Michael Novielli, who appeared Pro Se, maintained that Claimant was in breach of their contract when it terminated the pilot and flagship training program of which he was a participant. Respondent further maintained that due to several managerial changes, including vacancies, Claimant failed to give any in-house training except the standard three week course given to all trainees. Respondent contended that due to a managerial change he was instructed not to pursue efforts to expand his Middle East relationships, despite six months of work which included countless man hours and personal expenses. Respondent further contended that Claimant continued to break promises and became a detriment to his livelihood, and that for the above reasons, he should not be held liable.

RELIEF REQUESTED

Claimant PaineWebber, Inc., requested \$5,379.18 in actual damages plus interest, attorney's fees and other costs.

Respondent Michael Novielli, requested that the claims of the Claimant be dismissed.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Kevin C. Ahearn, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on August 9, 1995, and by the Respondent on September 28, 1995.

And, the Arbitrator, having considered the proof of the parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The Respondent Michael Novielli is liable and shall pay to the Claimant PaineWebber, Inc. \$5,379.18 in actual damages.
2. The parties shall bear their respective costs.
3. The \$575.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc.
4. All other relief requests are denied.

AFFIRMATION

I, **KEVIN C. AHEARN**, do hereby affirm, pursuant to Article 7507 of the Civil Procedure Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.



Kevin C. Ahearn,

DATE OF DECISION: April 10, 1996