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N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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Securities Dealers

In the Matter of the Arbitration Between

1994

Name of Claimant

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Halpert, Oberst and Company

95-04759

Name of Respondent

Jason C. Foote

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on October 9, 1995, Claimant Halpert, Oberst and Company ("Claimant") through its representative and in-house counsel, Lois J. Cohen, Esq., alleged that it employed Respondent Jason C. Foote ("Respondent") and that he breached his employment agreement ("agreement") signed on March 22, 1994. Claimant further alleged that, among other things, the agreement provided for sponsorship of Respondent as a registered representative, required that salary advances were to be repaid from future earnings and restricted his use of confidential information both provided by it and generated by him in the course of business activity. Claimant also alleged that around May 12, 1995, Respondent resigned and since has failed to abide by the terms of the agreement. Claimant contended that it has demanded that Respondent pay it \$7,067.00 resulting from pay advances and that he return confidential information it owns such as customer lists and trade secrets. Claimant further contended that Respondent's conduct is irreparably harming its opportunity to earn commissions related to its customer accounts. Claimant also contended that as a result of the above, it has suffered losses for which the Respondent should be held liable.

Respondent Jason C. Foote through his representative John C. Gordon, Esq., located in Annapolis, MD, presented a copy of a petition to stay this arbitration filed with the Anne Arundel County located in the state of Maryland. Respondent maintained in the petition that the alleged contract to arbitrate entered into by the parties was void ab initio because the parties never had a meeting of the minds sufficient to form an enforceable contract.

RELIEF REQUESTED

Claimant Halpert, Oberst and Company requested \$7,607.00 in actual damages, statutory interest, costs and filing fees. Claimant further requested that Respondent be enjoined for a period of one year from directly or indirectly soliciting or accepting any business from any of

9609164

its clients he previously serviced or became aware of while employed by it. Claimant also requested that Respondent be enjoined for one year from directly or indirectly using, disclosing or transmitting: (i) information contained in Halpert's documents, (ii) financial information, objectives, or account information of any clients whom he serviced while employed by it; and (iii) any other Confidential Information.

OTHER ISSUES CONSIDERED AND DECIDED

Pursuant to Section of the NASD Code of Arbitration Procedure, the Respondent Jason C. Foote was sent the Statement of Claim via regular mail and was given an opportunity to respond which he failed to do. In addition, notice of the identity of the arbitrator giving a deadline for entering documentary submissions was sent via certified mail and the signed return receipt card is on file with the NASD.

Pursuant to the by-laws of the NASD, the arbitrator determined that Respondent Jason C. Foote had notice of the claim, and was required to submit to this arbitration proceeding; and is, therefore, bound by the arbitrator's ruling and determination.

On May 18, 1996, the arbitrator requested in writing that the parties provide the status of Respondent's petition to stay the arbitration. The Respondent did not respond. The Claimant stated that it contacted the Anne Arundel court and was informed that the Respondent has yet to properly file the petition and hence it is not on their docket. The arbitrator determined that the Respondent's petition to stay the arbitration was not pending and has therefore rendered a decision on the merits.

AWARD

Pursuant to Section 10 of the NASD, Inc. Code of Arbitration Procedure, a single Industry Arbitrator, Daniel Donovan, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on October 5, 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 Jason C. Foote is liable and shall pay to the Claimant Halpert, Oberst and Company \$6,098.50 in actual damages.
2. The Respondent Jason C. Foote is liable and shall pay to the Claimant Halpert, Oberst and Company simple interest at the rate of 10% per annum from June 7, 1995 to the date of the award.

9609166

3. The claims of the Claimant Halpert, Oberst and Company against Respondent Jason C. Foote relating to injunctive relief are denied in their entirety.
4. The parties shall bear their respective costs.
5. 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. Respondent Jason C. Foote is liable and shall pay to the Claimant \$575.00 as reimbursement of the filing fee.

AFFIRMATION

I, DANIEL DONOVAN, ESQ., do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.



Daniel Donovan, Esq.

DATE OF DECISION:

September 26, 1996