

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Halpert and Co., Inc.

95-04996

Name of Respondent

Mark A. Jones

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on October 23, 1995, Claimant Halpert and Co., Inc., ("Claimant") through its representative and in-house counsel, Lois J. Cohen, alleged that Respondent Mark A. Jones ("Respondent") a former employee, failed to pay a debt owed to the firm upon the termination of his employment. Claimant further alleged that Respondent signed an Employment Agreement that stated it would train him and provide him with an income of \$300.00 per week which was understood to be an advance against future commissions. Claimant contended that Respondent understood he was to repay the amount which was in excess of commissions earned should he voluntarily terminate his employment prior to the time his commissions offset the advanced amount. Claimant further contended that Respondent solicited its clients for use at his present employment at Dean Witter which is prohibited by the Employment Agreement. Claimant alleged that Respondent has completely ignored his obligations under the Employment Agreement and has failed to return the confidential information he took. Claimant further alleged that Respondent has refused demands for repayment and as a result of the above, it has suffered a loss for which he should be liable.

Respondent Mark A. Jones, who appeared Pro Se, maintained that it was his understanding that he would be on salary as stated in the Employment Advertisement and not on advance draw. Respondent further maintained that Claimant rushed him to sign the Employment Agreement, therefore he was unable to carefully read it. Respondent contended that he informed Claimant how much salary he needed and it was understood he would receive at least \$500.00 per week. Respondent further contended that when he received his first paycheck after five weeks it only reflected \$300.00 per week. Respondent asserted that he was told to build his business in a manner that he chose but those choices posed ideological problems. Respondent Jones contended that as a result of the above, he should not be held liable in this matter.

RELIEF REQUESTED

Claimant Halpert and Co., Inc., requested \$6,665.00 in actual damages, plus interest, attorneys' fees, other costs, monetary relief and a declaratory judgment.

Respondent Mark A. Jones, requested that the claims of the Claimant be dismissed.

AWARD

Pursuant to Section 10 of the NASD, Inc. Code of Arbitration Procedure, a single Industry Arbitrator, Wendie L. Wachtel, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Halpert and Co., Inc., on October 19, 1995 but not by the Respondent Mark A. Jones, as required by Sections 8 and 10 of the NASD Code of Arbitration Procedure.

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. Respondent Mark A. Jones is liable and shall pay to Claimant Halpert & Co., Inc. \$5,680.00 in actual damages.
2. Respondent Mark A. Jones is enjoined for a period of one year from June 10, 1995, from directly or indirectly soliciting or accepting any business from any of Claimant's clients whom he serviced or whose name became known to him while in the employ of Claimant, and further, from accepting business from any client whom he already has solicited for the purpose of doing business with Dean Witter;
3. Respondent is enjoined for one year from June 10, 1995 from directly or indirectly using, disclosing or transmitting: (i) information contained in his documents, (ii) financial information, objectives, or account information of any clients whom he serviced while he was employed by Claimant; and (iii) any other Confidential information.
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.

AFFIRMATION

~~STATE OF~~

District of
Columbia

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SS:

~~COUNTY OF~~

I, Wendie L. Wachtel, 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.

Wendie L. Wachtel

Signature of Arbitrator

Wendie L. Wachtel

DATE OF DECISION:

March 22, 1996