

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Paragon Capital Corporation

95-05593

Name of Respondents

Lascalles Alexander Knight
Theodore Andrew Werner

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on November 29, 1995, Claimant Paragon Capital Corporation ("PCC"), through its representative and in-house counsel, Michele D. Wessel, Esq., alleged that Respondents Lascalles Alexander Knight ("Knight"), and Theodore Andrew Werner ("Werner"), (collectively referred to as the "Respondents"), breached their contractual obligations upon termination of their employment with PCC. PCC further alleged that concurrent with the commencement of their employment with PCC on April 17, 1995, they each signed and dated the "New Registered Broker Agreement," the "Registered Representative Compliance Agreement," and the "Agreement and Promissory Note," whereby they each agreed that upon termination or resignation, any unpaid draws, debits, or advances would be due to PCC on that date. Claimant further contended that Respondents voluntarily resigned on July 20, 1995. Claimant alleged that during his employment, Knight had received advances totalling \$4,500.00, minus a credit of \$1,142.27, and therefore owes to PCC a balance of \$3,357.73. Claimant further alleged that Werner had received advances totalling \$4,500.00, and left a debit of \$357.54, and therefore owes to PCC a balance of \$4,857.54. Claimants contended that they have attempted to resolve this matter with Respondents to no avail, and therefore they should be held liable.

Respondent Lascalles Alexander Knight, through his representative and counsel, Douglas E. Arend, Esq., located in Chicago, IL., maintained that the total amount of income that he produced is more than sufficient to cover any payments made to him by PCC. Knight further maintained that he had a verbal agreement that upon the generation of more than \$20,000.00 in gross commission revenue, any monies advanced to him would be forgiven or discharged, but that since PCC hold all the pertinent records, he is unable to determine the total of such amounts. Knight contended that he resigned from PCC because PCC prevented him from implementing a training program in accordance with his guidelines and because he was directed to prevent clients from liquidating certain positions in securities they held. Knight further contended that he was effectively forced to resign from his position, and that he committed no wrongdoing, and therefore; he should not be held liable.

Respondent Theodore Andrew Werner, who appeared Pro Se, maintained that PCC failed to honor its contract. Werner further maintained that he and Knight were in a partnership which involved sharing the expenses and gross production, and that according to the PCC contract, they were required to reach production levels of \$20,000.00 gross commissions per broker over a three month period. Werner contended that both Respondents met with Mark Levine ("Levine") at PCC to request a waiver of the loan because Knight had reached \$26,500.00 under his individual number, but that Levine refused to do so and stated that there had to be a combined effort. Werner further contended that it was because of this incident and other incidents which seemed unethical, that he and Knight decided to leave PCC, and that they do not owe any monies to PCC, and therefore; he should not be held liable.

RELIEF REQUESTED

Claimant Paragon Capital Corporation, requested \$3,357.73 in actual damages from Respondent Lascelles Alexander Knight, plus costs and interest.

Claimant Paragon Capital Corporation, requested \$4,8573.54 in actual damages from Respondent Theodore Andrew Werner, plus costs and interest.

Respondent Lascelles Alexander Knight, requested that the claims of the Claimant Paragon Capital Corporation be dismissed.

Respondent Theodore Andrew Werner, requested that the claims of the Claimant Paragon Capital Corporation be dismissed.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrator reviewed and considered Theodore Andrew Werner's request that Claimant Paragon Capital Corporation be ordered to produce certain documents. The Arbitrator denied this request.

AWARD

Pursuant to Section 10 of the NASD, Inc. Code of Arbitration Procedure, a single Industry Arbitrator, Jack Stein, Esq. was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Paragon Capital Corporation on December 7, 1995, and by the Respondent Lascelles Alexander Knight on February 12, 1996, and not by the Respondent Theodore Andrew Werner 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 Lascelles Alexander Knight is liable and shall pay to the Claimant Paragon Capital Corporation, \$3,357.73 in actual damages.
2. Respondent Theodore Andrew Werner is liable and shall pay to the Claimant Paragon Capital Corporation, 4,857.54 in actual damages.
3. Respondents Lascelles Alexander Knight and Theodore Andrew Werner are liable and shall pay to the Claimant Paragon Capital Corporation interest at the rate of 6% per annum from July 1, 1995 to the date of payment of the award.
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 Lascelles Alexander Knight and Theodore Andrew Werner shall each pay to Claimant Paragon Capital Corporation, \$287.50, as reimbursement of the \$575.00 filing fee.


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AFFIRMATION

I, **JACK STRIN, 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.



Signature of Arbitrator



DATE OF DECISION: May 16, 1996