

## **AWARD**

NASD Regulation, Inc. Office of Dispute Resolution

---

In the Matter of the Arbitration Between

Ronald D. Bell,

Claimant,

and

No. 95-06043

MMAR Group, Inc., Cory Miner, Paul Brown,  
Tracy Adams, Sean Dobson, and Jesse Chabolla,

Respondents,

---

### **REPRESENTATION OF PARTIES**

Claimant Ronald D. Bell was represented by John V. Mastriani, Esquire, of Houston, Texas.

Respondents MMAR Group, Inc., Cory Miner, and Paul Brown were represented by Richard P. Shultz, Esquire, of Atlanta, Georgia.

Respondents Tracy Adams, Sean Dobson and Jesse Chabolla were represented by J. Eugene Clements, Esquire, and Ruth B. Downes, Esquire, of Clements, O'Neill, Pierce & Nickens, L.L.P., located in Houston, Texas.

### **CASE INFORMATION**

Claimant Ronald D. Bell made the following filings: Statement of Claim on or about December 27, 1995; Second Amended Statement of Claim on or about July 18, 1996; Third Amended Statement of Claim on or about December 2, 1996; Reply to Respondents' Counterclaim on or about February 7, 1996; and Amended Reply to Respondents' Counterclaim on or about July 18, 1996. Claimant Ronald D. Bell's Submission Agreement was signed on December 20, 1995.

Respondents MMAR Group, Inc., Cory Miner, and Paul Brown's Statement of Answer and Counterclaim was filed on or about January 22, 1996. Respondent MMAR's Submission Agreement was signed on January 18, 1996, by Cory J. Miner, President and C.E.O. of MMAR Group, Inc. Respondent Cory Miner's Submission Agreement was signed on January 18, 1996. Respondent Paul Brown's Submission Agreement was signed on January 18, 1996.

Respondent Jesse Chabolla's Statement of Answer was filed on or about December 1, 1996. Respondent Jesse Chabolla's Submission Agreement was signed on December 2, 1996.

Respondent Sean Dobson's Statement of Answer and Motion for Dismissal, Sanctions and Expungement was filed on or about June 13, 1996. Respondent Sean Dobson's Submission Agreement was signed on April 30, 1996.

### **HEARING INFORMATION**

A large and complex administrative conference was held on June 26, 1996 for one (1) session.

A pre-hearing conferences was held on August 16, 1996 for one (1) session.

The hearing was held on:      December 2, 1996 for two (2) sessions; and  
   December 3, 1996 for two (2) sessions.

The hearing was held in Houston, Texas.

### **CASE SUMMARY**

Claimant Ronald Bell ("Claimant") alleged that respondent MMAR Group, Inc., through its principals, respondents Cory Miner and Paul Brown, (hereinafter collectively referred to as "Respondents") were liable for past commissions and bonuses due and owed him. Claimant asserted that in or about 1991 Respondents solicited him to become a registered representative for them and assured Claimant that he was to receive a bonus on certain dates and a commission for trades, which he relied upon in accepting the position. Claimant further asserted that he subsequently passed on, and informed Respondents about, an opportunity to work at Prudential Bache Securities where he was offered a \$2,750,000.00 bonus to sign up, a 50% pay out, and a 5% bonus on increments of \$5,000,000.00. According to Claimant, on or about April 19, 1993, Claimant and Respondents executed a registered representative agreement in which Respondents unequivocally assured Claimant that he would be paid. Claimant reported that he performed services for Respondents until they ceased conducting business. Claimant argued that although his commissions were paid for approximately seven months pursuant to the terms of the registered representative agreement, he had sustained the following damages: \$553,642.83 in trade commissions; \$250,000.00 bonus due and owed to Claimant on December 31, 1993; \$250,000.00 bonus due and owed to Claimant on April 1, 1994; \$125,000.00 bonus due and owed for exceeding another \$5,000,000.00 in gross business; the \$2,750,000.00 signing bonus that Respondents induced Claimant to reject; and \$5,000,000.00 for one years salary for the time Claimant lost when Respondents abruptly ceased conducting business.

Respondents denied the substantive allegations set forth in the Statement of Claim. Respondents made the following defenses: (1) there had been an accord and satisfaction between the parties and this matter had previously been resolved between them in its entirety; (2) the Statement of Claim was barred by the doctrine of laches; and (3) the Statement of Claim was barred by the doctrine of equitable estoppel.

Respondents alleged that there had been an accord and satisfaction between the parties as a result of Claimant's failure to execute a sell order. Respondents stated that on or about October 22, 1993, Claimant sold FHLMC bond G 23 SG to Multivalores Casa de Bolsa ("Multivalores"), with a trade date of October 25, 1993. Respondents asserted that on or about October 29, 1993, Claimant was given a sell order by Multivalores, which he failed to execute. As a result, Respondents claimed losses in an amount more than \$1,000,000.00. Respondents further stated that they and Claimant entered into an agreement whereby Respondents would not seek recovery for these losses in return for Claimant's agreement to waive whatever payments, if any, might be required by his April 19, 1993 Registered Representative Agreement.

Claimant denied the allegations set forth in the Counterclaim. Claimant also named Jesse Chabolla as a respondent asserting that Jesse Chabolla was the registered representative of MMAR Group, Inc. and assigned to the Multivalores trade. Claimant alleged that for any liability attributable to himself, he was entitled to full and complete indemnity or contribution from respondent Jesse Chabolla.

Respondent Jesse Chabolla denied that Claimant had any right of contribution or indemnity against him. Respondent Jesse Chabolla made the following defenses: (1) respondent Jesse Chabolla had engaged in no wrongdoing and had no responsibility or ability to pay Claimant the commissions he seeks; (2) Claimant was estopped to complain because respondent Jesse Chabolla followed Claimant's instructions at all times; and (3) Claimant waived any contribution claim by entering into a settlement in 1993 with MMAR Group, Inc., without the involvement of Jesse Chabolla.

### **RELIEF REQUESTED**

Claimant Ronald D. Bell requested an award for compensatory damages in the amount of \$1,275,612.17. Claimant Ronald D. Bell also requested an award for interest, attorney fees, exemplary damages, and/or in the alternative, the sum of \$7,750,000.00 for the loss of the Prudential Bache opportunity along with exemplary damages, attorney fees and costs. Finally, claimant Ronald D. Bell requested contribution and indemnity from respondent Jesse Chabolla, if held liable for damages to respondent MMAR Group, Inc.

Respondents MMAR Group, Inc. Cory Miner, and Paul Brown requested that the claims asserted against them be dismissed in their entirety. Respondents MMAR Group, Inc. Cory Miner, and Paul Brown also requested an award for actual damages, exemplary damages, pre-judgment and post-judgment interest, and costs and attorney fees.

Respondent Jesse Chabolla requested that the Statement of Claim be dismissed as to Jesse Chabolla and that claimant Ronald D. Bell be ordered to pay his attorney fees, costs and expenses.

**OTHER ISSUES CONSIDERED & DECIDED**

Pursuant to claimant Ronald D. Bell's letter dated July 11, 1996, claimant Ronald D. Bell withdraw his claim against respondent Tracy Adams without prejudice.

On or about August 6, 1996, claimant Ronald D. Bell moved for dismissal of respondent Sean Dobson. After careful consideration the undersigned Chairman of the arbitrator panel granted this motion and ordered that all claims made in this case be dismissed without prejudice as to respondent Sean Dobson.

At the hearing in this matter, respondents Cory Miner and Paul Brown moved for a directed verdict to dismiss claimant Ronald D. Bell's claims against them individually. The arbitrators took the motion under advisement. Following the hearing and after careful consideration, the undersigned panel of arbitrators decided and hereby order that any and all claims by claimant Ronald D. Brown against respondents Cory Miner and Paul Brown individually are hereby dismissed with prejudice.

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with NASD Regulation, Inc. Office of Dispute Resolution.

**AWARD**

After considering the pleadings, the testimony, and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent MMAR Group, Inc. is liable for and shall pay claimant Ronald D. Bell for compensatory damages in the amount of \$180,612.00, plus simple interest thereon at a rate of 6%, which begins to accrue February 1, 1997; and
2. All claims made by claimant Ronald D. bell against respondents Cory Miner, Paul Brown and Jesse Chabolla are hereby denied in their entirety and dismissed with prejudice;
3. Any relief not specifically granted herein is hereby denied in its entirety;
4. The parties shall bear their own costs, including attorneys' fees, except for forum fees, which are addressed below.

### **FORUM FEES**

Forum fees are calculated at the rate of \$1,500 per hearing session and \$300 for each pre-hearing conference session. There was one (1) pre-hearing conference session x \$300, and there were four (4) hearing sessions x \$1,500 = \$6,300. Pursuant to §10205(b) of the NASD Code of Arbitration Procedure (the "Code"), a hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less.

Pursuant to §10205(c) of the Code, NASD Regulation, Inc. Office of Dispute Resolution shall **retain** the non-refundable filing fee in the amount of \$500 and shall **retain** as forum fees the hearing session deposit in the amount of \$1,500 previously deposited with NASD Regulation, Inc. Office of Dispute Resolution by claimant Ronald D. Bell.

Pursuant to §10205(c) of the Code, NASD Regulation, Inc. Office of Dispute Resolution shall **retain** the non-refundable filing fee in the amount of \$500 and shall **retain** as forum fees the hearing session deposit in the amount of \$1,500 previously deposited with NASD Regulation, Inc. Office of Dispute Resolution by respondents MMAR Group, Inc., Cory Miner, and Paul Brown.

Claimant Ronald D. Bell is liable for and shall pay to the NASD Regulation, Inc. Office of Dispute Resolution additional forum fees in the amount of \$1,650.

Respondent MMAR Group, Inc. is liable for and shall pay to the NASD Regulation, Inc. Office of Dispute Resolution additional forum fees in the amount of \$1,650.

**Fees are payable to NASD Regulation, Inc. Office of Dispute Resolution.**

Signed:

Dated:

Richard P. Flake, Esquire  
Richard P. Flake, Esquire  
Public Arbitrator, Presiding Chair

January 27, 1997

Bertrand C. Moser  
Bertrand C. Moser  
Public Arbitrator

January 27, 1997

Jane E. Bates  
Jane E. Bates  
Industry Arbitrator

January 27, 1997

Date served by the NASD Regulation, Inc.: February 3, 1997