

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the matter of the Arbitration Between

Name of Claimant

Everen Securities, Inc.

NASD Arbitration
No. 96-00158

Name of Respondent

Thomas N. Zirbel

REPRESENTATION

For Claimant: Ronald P. Kane, Esq.
Gomberg, Kane & Fischer, Ltd.
Chicago, Illinois

For Respondent: Otto K. Hilbert, II, Esq.
LeBoeuf, Lamb, Greene & MacRae, L.L.P.
Denver, Colorado

CASE INFORMATION

Statement of Claim filed:	January 11, 1996
Claimant's Submission Agreement signed:	January 10, 1996
Statement of Answer and Counterclaim filed by Respondent:	March 21, 1996
Answer to Counterclaim filed by Claimant:	April 16, 1996
Respondent's Submission Agreement signed:	February 16, 1996

HEARING INFORMATION

Hearing Dates / Sessions: August 13, 1996 (2 sessions)
August 14, 1996 (2 sessions)

Hearing Location: Los Angeles, California

CASE SUMMARY

Claimant alleged that Respondent received \$105,968.49 in draw payments which Respondent was not entitled to retain. Specifically, Claimant asserted that Respondent, who had voluntarily resigned from Claimant, was not eligible to retain draw payments on his future annual bonus because Respondent was not employed with Claimant for the required time period to become eligible for such a bonus. As such, Claimant alleged that any draw payments made on the anticipated annual bonus must be returned to Claimant. Claimant also denied Respondent's allegations in his counter-claim.

Respondent denied Claimant's allegations in its statement of claim. Respondent further alleged in his counterclaim that Claimant owed Respondent for previously earned bonuses which were not paid by Claimant.

RELIEF REQUESTED

Claimant sought damages in the amount of \$105,968.49, interest at the statutory rate of ten percent from August 2, 1995 through the date of payment.

Respondent sought dismissal of Claimant's claim in its entirety and \$48,697.12 in compensatory damages.

OTHER ISSUES CONSIDERED AND DECIDED

The parties have agreed that the Award in this matter may be executed in either 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 remains on file with the NASD.

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. Claimant is awarded the sum of \$105,968.49, with 10% interest per annum from the date of the award.
2. Respondent's Counterclaim is denied in its entirety.
3. Each side shall bear its/his own costs and attorneys' fees.
4. Forum Fees shall be assessed equally between the parties.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following forum fees are assessed:

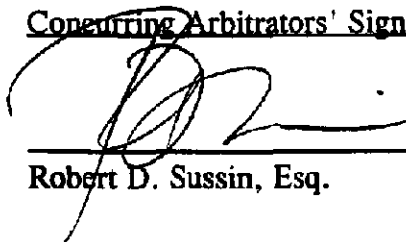
Four (4) Hearing Sessions @ \$750.00 / Session	=	\$3,000.00
Total Forum Fees	=	\$3,000.00
Claimant's One-Half Share	=	\$1,500.00
Claimant's Credit for Hearing Session Deposit	=	\$750.00
Claimant's Balance Due	=	\$750.00
Respondent's One-Half Share	=	\$1,500.00
Respondent's Credit for Hearing Session Deposit	=	\$600.00
Respondent's Balance Due	=	\$900.00

Fees are payable to the National Association of Securities Dealers, Inc.

ARBITRATORS

<u>Name</u>	<u>Public / Industry</u>
Robert D. Sussin, Esq.	Public Arbitrator
Luther D. Prater	Industry Arbitrator
Roberta Haft	Public Arbitrator

Concurring Arbitrators' Signatures



Robert D. Sussin, Esq.

Luther D. Prater

Roberta Haft

Date of Decision: AUGUST 14, 1996

Date of Service: _____

ARBITRATORS

<u>Name</u>	<u>Public / Industry</u>
Robert D. Sussin, Esq.	Public Arbitrator
Luther D. Prater	Industry Arbitrator
Roberta Haft	Public Arbitrator

Concurring Arbitrators' Signatures

Robert D. Sussin, Esq.

Luther D. Prater

Luther D. Prater

Roberta Haft

Date of Decision: _____

Date of Service: _____

ARBITRATORS

<u>Name</u>	<u>Public / Industry</u>
Robert D. Sussin, Esq.	Public Arbitrator
Luther D. Prater	Industry Arbitrator
Roberta Haft	Public Arbitrator <i>Industry Arbitrator</i>

Concurring Arbitrators' Signatures

Robert D. Sussin, Esq.

Luther D. Prater



Roberta Haft

Date of Decision: _____

Date of Service: 9/5/96