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**AWARD**

**NATIONAL ASSOCIATION OF SECURITIES DEALERS REGULATION, INC.**

In the Matter of the Arbitration Between

Name of Claimant

Stifel, Nicolaus & Company, Incorporated

and

Case Number 96-00937

Name of Respondent

Paul W. Inman, II

**REPRESENTATION OF PARTIES**

Claimant Stifel, Nicolaus & Co., Inc. was represented by Bart A. Boren, Esq. of Williams, Luttrell & Boren, P.C. located in Oklahoma City, OK.

Respondent Paul W. Inman, II was represented by Stephen A. Zrenda, Jr., Esq. , Sole Practitioner, located in Oklahoma City, OK.

**CASE INFORMATION**

The Statement of Claim was filed on or about March 4, 1996.

The Submission Agreement of Claimant Stifel, Nicolaus & Co., Inc. was signed on March 1, 1996 by Michael J. Runzi, Assistant Vice President.

The Statement of Answer and Counter-Claim of Respondent Paul W. Inman, II was filed on or about April 12, 1996.

The Submission Agreement of Respondent Paul W. Inman, II was signed on April 11, 1996.

Claimant Stifel, Nicolaus & Co., Inc.'s Response to the Counter-Claim was filed on or about May 13, 1996.

**HEARING INFORMATION**

The hearing was held on October 29, 1996 in Oklahoma City, OK for a total of two (2) sessions.

### **CASE SUMMARY**

In the Statement of Claim, Stifel, Nicolaus & Co., Inc. ("Claimant") alleged that Paul W. Inman, II ("Respondent") owed the balance due on a Promissory Note (the "Note") executed on August 31, 1994 by Respondent, in exchange for \$50,000.00. As alleged, the Note stated that it would become immediately due and payable in the event the Respondent's employment with Claimant was terminated either voluntarily or involuntarily and for any reason. Claimant contended that the Note also stated that it could be assigned by Claimant. Respondent's employment with Claimant allegedly ended on May 31, 1995 and Respondent was terminated from Capital West on September 22, 1995. Claimant alleged that Respondent owed \$40,000.00 for the balance of the Note plus interest, costs and attorneys' fees to Claimant due pursuant to the terms of the Note. Despite demand, Respondent had failed and refused to pay the Claimant the amount owed.

Respondent denied the allegations set forth in the Statement of Claim. Respondent specifically stated that the result of Claimant selling its business in the State of Oklahoma to Capital West Securities, Inc. in May of 1995 under pressure of investigations and litigation, was to make it impossible to continue to retain and employ the Respondent so, in effect, Claimant ended the employment of Respondent. Respondent contended that Claimant did not assign or transfer the Note to Capital West Securities, Inc. Respondent further contended that the \$50,000.00 was intended by the parties to be a sign-up bonus. Respondent asserted many affirmative defenses including, but not limited to, the doctrine of accord and satisfaction, the doctrine of equitable estoppel, the Note was a contract of adhesion and, therefore, unenforceable, and the claim was barred due to the discharge of the Note by the full performance of Respondent.

In his Counter-Claim, Respondent alleged that the Claimant's misrepresentations and omissions of fact, in connection with its inducements to Respondent to become a registered representative of Claimant upon which the Respondent relied, constituted the tort of deceit. Respondent also alleged that Claimant's nondisclosure of the extent and nature of the governmental investigations along with the false and misleading representations made by Claimant constituted the tort of intentional interference with existing and prospective business advantage.

Claimant denied the allegations of wrongdoing contained in the Counter-Claim.

### **RELIEF REQUESTED**

Claimant Stifel, Nicolaus & Co., Inc. requested an award in the amount of \$40,000.00 for the balance on the Note plus interest at a rate of 9% from November 6, 1995 as well as costs and attorneys' fees.

Respondent Paul W. Inman, II requested that the Statement of Claim asserted against him be denied in its entirety and that he be awarded \$75,000.00 in unspecified damages with interest at a rate of 9% beginning in August of 1994 plus punitive damages, costs and attorneys' fees.

### **OTHER ISSUES CONSIDERED & DECIDED**

The parties have agreed that a handwritten, signed Award may be entered. The parties have agreed to receive conformed copies of the award while the original remains on file with the National Association of Securities Dealers Regulation, Inc. ("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. The Statement of Claim submitted by Claimant Stifel, Nicolaus & Co., Inc. is hereby denied in its entirety;
2. The Counter-Claim filed by Respondent Paul W. Inman, II is hereby denied in its entirety;
3. The parties shall pay their own costs, including attorneys' fees, except for those fees specifically enumerated herein; and
4. All relief not specifically granted is hereby denied in its entirety.

### **FORUM FEES**

Forum fees are calculated at the rate of \$750.00 per hearing session. There were two (2) sessions x \$750.00 = \$1,500.00 in forum fees. Pursuant to Section 10205 of the 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 Sections 10205(c) and 10333 of the Code, the NASD Regulation, Inc. Office of Dispute Resolution shall retain the non-refundable filing fee in the amount of \$500.00 as well as the \$200.00 member surcharge and shall retain as forum fees the hearing session deposit in the amount of \$600.00 previously deposited with the NASD Regulation, Inc. Office of Dispute Resolution by Claimant Stifel, Nicolaus & Co., Inc.

Claimant Stifel, Nicolaus & Co., Inc. is hereby liable for and shall pay to the NASD Regulation, Inc. Office of Dispute Resolution the sum of \$1 50.00 in additional forum fees.

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Respondent Paul Inman is hereby liable for and shall pay to the NASD Regulation, Inc. Office of Dispute Resolution the filing fee for the Counter-Claim in the amount of \$500.00 and forum fees in the amount of \$750.00.

**Fees are payable to the National Association of Securities Dealers Regulation, Inc. Office of Dispute Resolution.**

Signed:

Dated:

Ronald R. Simpson  
Ronald R. Simpson  
Industry Arbitrator, Presiding Chair

December 13, 1996

William M. Lacy  
William M. Lacy  
Industry Arbitrator

December 13, 1996

Joseph W. Bowie  
Joseph W. Bowie  
Industry Arbitrator

December 13, 1996

Date served by the NASD Regulation, Inc.: December 16, 1996