

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Dean Witter Reynolds Inc.

96-00499

Name of Respondent

David M. Moore

REPRESENTATION

For Claimant, Dean Witter Reynolds, Inc. "(DWR)": Michael S. Taaffe, Esq., of Abel, Band, Russell, Collier et al., Sarasota, Florida.

For Respondent, David M. Moore ("Moore"): pro se (see "Other Issues")

CASE INFORMATION

Statement of Claim filed: 1/30/96.

Claimant's Submission Agreement/Corporate Acknowledgment signed on: 1/30/96 by Ralph P. Schiavo on behalf of DWR.

Respondent, Moore did not file a Statement of Answer nor did he submit an executed Submission Agreement as required under Sections 10301 and 10314 (formerly Sections 12 and 25) of the Code of Arbitration Procedure (see "Other Issues").

HEARING INFORMATION

Hearing Date/Sessions: 9/27/96-one (1) session.

Hearing Location: Fort Lauderdale, Florida

CASE SUMMARY

Claimant alleged that; in connection with his employment with DWR, for value received on June 14, 1995, Respondent, Moore executed and delivered to DWR a Promissory Note ("the Note") in the principal amount of \$74,725.00, payable in four equal installments; that the Note provided, inter alia, that if Moore died while employed by DWR or was terminated for any reason, the unpaid balance of the principal sum, plus accrued interest, should be immediately due and payable as of the date of such death or termination of employment; that Moore terminated his employment with DWR effective October 24, 1995, at which time all outstanding

amounts of principal under the Note became immediately due and payable; that Moore breached the Note by failing to pay the principal sum of \$74,725.00 plus accrued interest at a rate of 8% from June 14, 1995 all of which is now due and owing under the Note; that on November 22, 1995, and December 4, 1995, DWR made written demand on Moore for repayment of amounts owed under the Note.

RELIEF REQUESTED

Claimant requested that it be awarded the principal sum of \$74,725.00 plus accrued interest at the legal rate from June 1, 1995 through the date of this award; the costs of this arbitration; all reasonable attorneys' fees; and, any and all further relief which this panel deems just and proper.

OTHER ISSUES CONSIDERED & DECIDED

1. Respondent, Moore did not submit an executed Submission Agreement nor did he appear at the hearing. Based upon the evidence submitted in Arbitrators' Exhibit No. 1, regarding hearing notices to the parties, this arbitration panel found that proper notice existed as well as jurisdiction pursuant to Section 10301 (formerly Section 12) of the Code of Arbitration Procedure and pursuant to the Form U-4 executed by Moore. Therefore, this Panel found that Moore was required to sign a Submission Agreement and file a Statement of Answer pursuant to Section 10314 (formerly Section 25) of the Code of Arbitration Procedure and Moore, being a person associated with an NASD member firm at the time this controversy arose. Pursuant to Section 10318 (formerly Section 29) of the Code of Arbitration Procedure, this Panel proceeded with the hearing in Respondent, Moore's absence.
2. The parties at the hearing 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 originals remain on file with the NASD.

AWARD

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

1. Respondent, Moore, is found liable and shall pay to the Claimant the sum of 74,725.00.
2. Respondent, Moore, is further found liable and shall pay to the Claimant, costs in the amount of \$105.89.
3. Claimant's request for interest is hereby denied.
4. Claimant's request for attorneys' fees is hereby denied.
5. All other claims are hereby denied.

OTHER COSTS

Apart from the Forum Fees addressed below, the parties shall each bear all other costs incurred in connection with this proceeding.

FORUM FEES

Pursuant to Section 10205(c) (formerly Section 44c) of the Code of Arbitration Procedure, the Panel has assessed Forum Fees in the amount of \$600.00 (One (1) hearing session X \$600.00).

1. Respondent, Moore, shall pay Forum Fees in the amount of \$600.00 the entire amount of which shall be paid directly to the Claimant in full satisfaction thereof.
2. The NASD shall retain the \$600.00 hearing session deposit paid by the Claimant
3. The NASD shall retain the \$500.00 non-refundable filing fee paid by the Claimant.
4. The NASD shall retain the \$300.00 member surcharge paid by the Claimant, DWR.

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

ARBITRATION PANEL

Concurring Arbitrators' Signatures

Name

Public/Industry

/s/

John Darling

Industry/Chairman

/s/

Gustavus L. Pearthree

Industry/Panelist

/s/

Alvin Spier

Industry/Panelist

Date of Decision: December 13, 1996