

NASD REGULATION, INC. AWARD

In the Matter of the Arbitration Between

Name of Claimant

Lawrence D. Bain

96-01167

Name of Respondent

Dean Witter Reynolds Inc.

REPRESENTATION

For Claimant Lawrence D. Bain ("claimant") appeared Nancy L. Hendrickson, Esq., of the law offices of Coffield, Ungaretti & Harris.

For Respondent Dean Witter Reynolds Inc. ("respondent"), appeared Mark T. Carberry, Esq., of the law offices of Neal Gerber & Eisenberg.

CASE INFORMATION

Statement of Claim was filed on: March 14, 1996.

Claimant's Submission Agreement was signed on: March 15, 1996.

Statement of Answer was filed by respondent on: May 29, 1996.

Respondent's Submission Agreement was signed on: June 28, 1996.

HEARING INFORMATION

Pre-Hearing Conference:	March 4, 1997	-	One session
Hearing Date(s)/Sessions:	March 25, 1997	-	Two Sessions
	March 26, 1997	-	Two Sessions
	May 1, 1997	-	Two Sessions

The hearings were conducted at the offices of NASD Regulation, Inc. located in Cleveland, Ohio.

CASE SUMMARY

Claimant alleged that as of the time he left respondent's employ on June 11, 1995, he was generating approximately \$2,000,000 in gross commissions annually and was eligible to receive additional monies under respondent's incentive plans and finder's fees. Claimant contended that respondent refused to pay him or provide him with an accurate accounting of commissions or finder's fees he had earned.

In addition, claimant alleged that respondent embarked on a campaign to eliminate high producing branch managers, such as claimant, in order to avoid having to pay out large sums of deferred commission.

Claimant further alleged that the respondent instituted changes which were designed to create obstacles in the way of his efforts to succeed as a top branch manager and producer. Claimant maintained that since he was employed pursuant to a written employment agreement, respondent could not terminate without cause and, therefore, respondent set out to force him to resign.

Claimant alleged that, on June 6, 1995, he met with one of his supervisors to discuss a disagreement with respondent's conduct and direction. When it was apparent that they could not resolve their differences, claimant maintained they discussed and agreed to the details of his departure, which included being paid all sums due him, including his commission and finder's fees.

Claimant alleged that as a result of the pressure and ill-will that developed between himself and his supervisor and the unpleasant work environment which respondent fostered, he had no choice but to resign his position on June 11, 1995.

Respondent maintained that claimant resigned after being demoted from a position as Branch Manager. Further, respondent denied that it ever engaged in any policy to eliminate its high producing branch managers in order to renege on large deferred compensation plans. In addition, respondent alleged, that prior to resigning, claimant was reminded that, pursuant to written compensation practices, by voluntarily resigning he forfeited all of the bonuses and deferred compensation that had not become payable as of the date he resigned.

RELIEF REQUESTED

Claimant requested actual damages in excess of \$700,000; plus prejudgment interest, attorneys' fees, costs of this proceeding and such other relief as the panel deem fair and equitable.

Respondent requested that claimant's claims be denied in their entirety and that it be awarded its costs and attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDED

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 remain on file with the NASD Regulation.

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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. Dean Witter Reynolds, Inc. be and hereby is liable and shall pay claimant the sum of NINETY THOUSAND DOLLARS (\$90,000.00).
2. Claimant's requests for interest, attorneys' fees and costs are hereby denied.
3. All other requests are hereby denied.

FORUM FEES

Pursuant to Rule 10332(c) of the Code of Arbitration Procedure, the arbitrators have determined that NASD Regulation, Inc. shall retain the \$500.00 filing fee and have assessed the following forum fees:

1 pre-hearing session	x	\$ 300.00	=	\$ 300.00
6 hearing sessions	x	\$1000.00	=	\$6,000.00

1. Claimant be and hereby is liable for the sum of \$3,150.00, representing one-half of the total amount of forum fees assessed. Claimant previously deposited \$1,000.00 with NASD Regulation and, therefore, claimant shall pay the balance of \$2,150.00.
2. Respondent be and hereby is liable and shall pay the sum of \$3,150.00, representing one-half of the total amount of forum fees assessed.

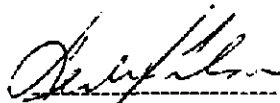
Fees are payable to the NASD Regulation, Inc.

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Arbitrators' Signatures

Robert Shiffra, Esq.
Industry Arbitrator

Robert V. Shepard
Industry Arbitrator


Leslie J. Filson
Industry Arbitrator

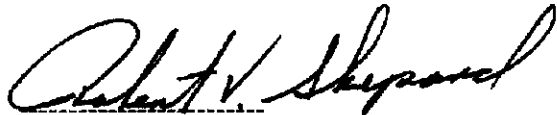
Date of Decision: July 22, 1997

RECIPIENTS:

Robert Shiffra, Esq.
Robert V. Shepard
Leslie J. Filson

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Robert Shiffra, Esq.
Industry Arbitrator



Robert V. Shepard
Industry Arbitrator - *chairperson*

Leslie J. Filson
Industry Arbitrator

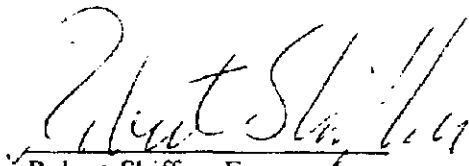
Date of Decision: July 22, 1997

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Industry Arbitrator

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Industry Arbitrator

Leslie J. Filson
Industry Arbitrator

Date of Decision: July 22, 1997

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