

NATIONAL ASSOCIATION OF SECURITIES DEALERS REGULATION, INC.

No. 96-01295

In Count I, Claimant Everen Securities, Inc. ("Everen") alleged that when Respondent Steve P. Collop ("Collop") began his employment with Everen, he voluntarily executed a promissory note

(the "Note") on October 1, 1993 in Everen's favor, which Note evidenced a loan from Everen to Collop in the amount of \$128,400.00. According to the Claimant, the Note provided that if Collop's employment by Everen was terminated for any reason, the unpaid balance on the Note, plus accrued interest, would become due and payable. Collop's employment with Everen terminated on May 16, 1995. Everen also alleged that at the time of the termination of Collop's employment, he had failed to reimburse Everen \$10,858.75 for taxes paid on Collop's behalf in regard to the Note. Everen alleged that, despite demand, to date, Collop has failed and refused to honor his obligations to Everen under the Note, and requested that an award be made to Everen for the principal amount of the Note, plus accrued interest, plus reimbursement of the taxes Everen paid on Collop's behalf, plus attorneys fees and costs, all as provided for in the Note.

In Count II, Everen alleged that Everen made certain payments on Collop's behalf for health insurance, term life insurance, long-term disability insurance, dental insurance, and vision insurance for which Collop failed to reimburse Everen, despite demand. In addition, Collop failed to make payments for parking. Everen requested an award of \$561.01 in regard to these insurance and parking payments.

In Count III, Everen alleged that, as a result of various trades in a securities account maintained by Collop at Everen, there remained a debit balance in the account, which Collop has failed to pay, despite demand. Everen alleged that the present amount of the debit balance is \$5,556.13, and interest is accruing at the approximate rate of \$1.56 per day, and requested an award against Collop for those amounts, plus attorneys fees and costs.

#### RELIEF REQUESTED

As to Count I, Everen requested an award against Collop to include 96,300.00 (the principal balance due on the Note); \$2,960.21 (interest accrued during the period November 11, 1994 through May 16, 1995, the date of Collop's termination from Everen); \$15,817.50 (interest accrued since May 16, 1995 through March 12, 1997). Everen also requested that it be awarded accruing interest at the rate of \$23.75 per day until the Note is paid, pursuant to terms of the Note, and that it be awarded \$10,858.75 (the amount of taxes Everen paid on Collop's behalf).

As to Count II, Everen requested an award against Collop in the amount of \$561.01.

As to Count III, Everen requested an award against Collop in the amount of \$5,556.13, plus accruing interest at the rate of \$1.56 per day.

Everen also requested an award against Collop for attorneys' fees of \$6,928.00; and costs in the amount of \$1,998.92, all as provided for pursuant to the terms of the Note, and the General Account Agreement Collop signed in connection with his securities account.

OTHER ISSUES CONSIDERED AND DECIDED

Claimant Everen Securities, Inc. filed a Motion to Preclude Respondent Steve P. Collop from asserting any defenses or other matters at the hearing, on the basis that Collop had failed to file an Answer in the case. In January 1997, the Panel, finding that Collop had been served with Everen's motion on December 4, 1996, granted the motion. Therefore, under Section 25(b)(2)(i) of the NASD Code of Arbitration Procedure (the "Code"), the Panel ordered on or about January 17, 1997 that Collop was barred from presenting any facts or defenses at the hearing.

Upon review of the file and the representations made by the Claimant, the Panel determined that Respondent Steve P. Collop had been properly served with the Statement of Claim pursuant to Sections 10314 of the Code. The Panel also determined that Respondent Steve P. Collop had received due notice of the hearing and the arbitrators as required under Sections 10315 and 10310 of the Code and that the arbitration of this matter would proceed pursuant to Section 10318 of the Code.

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 Steve P. Collop is hereby liable for and shall pay to Claimant Everen Securities, Inc. the sum of \$132,053.60 in actual damages plus simple interest on this amount at a rate of 9% per annum which will begin to accrue after thirty (30) days from the date of issuance of this award;
2. Respondent Steve P. Collop is hereby liable for and shall pay to Claimant Everen Securities, Inc. the sum of \$6,928.00 in attorneys' fees and the amount of \$1,998.92 in costs. In deciding to award attorneys' fees and costs, the arbitrators considered the pleadings, evidence, the testimony, and the provisions contained in the promissory note and the general account agreement;
3. With the exception of forum fees which are specifically addressed below, any relief not specifically granted herein is hereby denied in its entirety and dismissed with prejudice.

FORUM FEES

Forum fees are calculated at the rate of \$750 per hearing session. There was one (1) hearing session x \$750 = \$750 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) which lasts four hours or less.

In accordance with Section 10205(c) of the Code, the National Association of Securities Dealers Regulation, Inc. ("NASD Regulation, Inc.") Office of Dispute Resolution shall retain the non-refundable filing fee in the amount of \$500 and the hearing session deposit in the amount of \$750 which were previously deposited by Claimant Everen Securities, Inc. In accordance with Section 10333 of the Code, the NASD Regulation, Inc. Office of Dispute Resolution shall also retain the member surcharge in the amount of \$350 previously submitted by Claimant Everen Securities, Inc.

Pursuant to Section 10205(c) of the Code, Respondent Steve P. Collop is hereby liable for and shall pay to Claimant Everen Securities, Inc. the sum of \$750 as reimbursement for the hearing session deposit.

Arbitrators' Signatures:

Dated:

Donald H. Fidler, Esq.  
Donald H. Fidler, Esq.  
Public Arbitrator, Presiding Chair

March 21, 1997

Richard J. Caldwell  
Richard J. Caldwell  
Public Arbitrator

March 21, 1997

David J. Schnepf  
David J. Schnepf  
Industry Arbitrator

March 21, 1997

Date served by the NASD Regulation, Inc.: March 25, 1997