

AWARD

NASD REGULATION, INC., OFFICE OF DISPUTE RESOLUTION

In the matter of the Arbitration Between

Name of Claimant

John S. Burke

v.

Arbitration No.
96-01520

Name of Respondents

Redwood Securities Group, Inc.
Aditya B. Mukerji

REPRESENTATION OF PARTIES

John S. Burke ("**Claimant**") represented himself pro se.

Redwood Securities Group and Aditya B. Mukerji ("**Respondents**") were represented by Peter R. Boutin, Esq., Keesal Young & Logan, San Francisco, California.

CASE INFORMATION

Claimant's Statement of Claim was filed on or about April 1, 1996.

John S. Burke's Submission Agreement was signed on April 1, 1996.

The Joint Statement of Answer and Counterclaim for Redwood Securities Group and Aditya B. Mukerji was filed on or about May 31, 1996.

Claimant's Answer to Respondents' Counterclaim was filed on or about June 11, 1997.

Redwood Securities Group's Submission Agreement was signed June 4, 1996.

Aditya B. Mukerji's Submission Agreement was signed on June 4, 1996.

HEARING INFORMATION

Pre-hearing conferences were held on February 11, 1997 and March 25, 1997. Each lasted one session.

The hearing was held on April 25, 1997 in San Francisco for a total of 2 sessions.

CASE SUMMARY

Claimant alleges that he was terminated and that the Respondents breached an agreement to guarantee a minimum monthly salary to the Claimant for a period of six months. Claimant is seeking the amount remaining under the agreement.

Respondents deny the allegations set forth in the Statement of Claim, and alleged Claimant voluntarily terminated his employment. Respondents also specifically argued that the Claimant executed an agreeing to conform to the Employee Handbook, rules and regulations of Redwood Securities Group, that he failed to do so and the incident caused him to quit was based upon those policies. Alternatively, Respondents argue that the Claimant was an "at will" employee and subject to termination with or without cause and with or without notice.

Respondents in their counterclaim are seeking reimbursement for damages caused as a result of the Claimants actions while employed by the Respondents.

Claimant denies the allegations contained in the counterclaim and requests that they be dismissed in their entirety.

RELIEF REQUESTED

Claimant requested an award in the amount of \$23,300.

Respondent requested that the claims asserted against them be denied in their entirety. Additionally, the Respondents requested an amount in excess of \$8,249.63 on their counterclaim plus attorney's fees and costs. At the hearing, Respondents agreed to dismiss the counterclaim without prejudice.

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 NASD Regulation, Inc., Office of Dispute Resolution.

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Each and every claim of the Claimant is dismissed with prejudice;
2. Respondents counterclaim is dismissed without prejudice;
3. Each side to bear their own costs and attorney's fees.

FORUM FEES

Forum fees are calculated at the rate of \$300 per hearing session and \$300 for each prehearing conference, if any. There were 2 sessions x \$300 plus 2 pre-hearing conferences x \$300 = \$1,200 in total forum fees. Pursuant to Rule 10332(b) of the NASD Regulation, Inc., Office of Dispute Resolution 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 § 43(c) of the Code of Arbitration Procedure, Claimant is assessed \$300 and all remaining forum fees are assessed against the Respondents, jointly and severally.

Total Fees	
2 Hearing Sessions @ \$300.00 =	\$ 600.00
2 Pre-Hearing Conf. @ \$300.00 =	\$ 600.00
Total	<u>\$1,200.00</u>

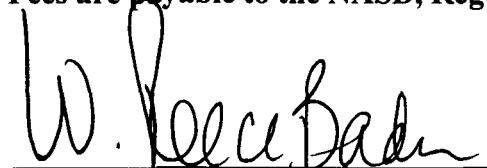
Claimant's deposit	\$300.00
Claimant's forum fee assessment	\$300.00
Claimant's Balance	\$ 0.00

Respondents deposit	\$ 0.00
Respondents forum fee assessment	\$900.00
Respondents Balance	\$900.00

Pursuant to §43(c) of the Code, NASD Regulation, Inc. shall **retain** the non-refundable filing fee in the amount of \$500 and shall **retain** the hearing session deposit in the amount of \$300 previously deposited with NASD Regulation, Inc. by the Claimant John S. Burke.

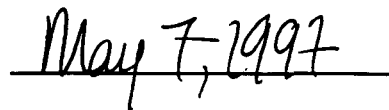
Pursuant to §45 of the Code, the NASD shall retain the member surcharge fee in the amount of \$200 paid or owing by Redwood Securities Group.

Fees are payable to the NASD, Regulation, Inc.



W. Reece Bader, Esq.
Industry Arbitrator, Presiding Arbitrator

Dated:



Date Served: May 7, 1997