

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Biltmore Securities, Inc.

96-02068

Name of Respondent

Lee Duran

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CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on May 15, 1996, claimant Biltmore Securities, Inc. ("claimant") through its representative and counsel, Peri Erlanger, of the law firm of Bernstein & Wasserman, LLP, located in New York, New York, alleged that respondent Lee Duran ("Duran") failed to pay debts owed to it. Claimant further alleged that Duran was employed by it from August 19, 1994, through January 4, 1995. Claimant also alleged that in relation to such employment, Duran executed an employment agreement in which he agreed to pay for expenses including but not limited to, the cost of training, telephone, secretarial and prospecting services directly attributable to Employee for three (3) year period ending with Employee's termination of employment at the company. Claimant contended that on March 21, 1995, it wrote Duran demanding immediate payment for the sum of \$7,643.79, reflecting expenses incurred by it on behalf of Duran.

Respondent Lee Duran did not file a Statement of Answer to the Statement of Claim.

RELIEF REQUESTED

Claimant Biltmore Securities, Inc. requested \$7,643.79 in actual damages plus interest, attorney's fees, costs and disbursements, and such other relief as the arbitrator deems appropriate.

Respondent Lee Duran did not file a Statement of Answer to the Statement of Claim.

OTHER ISSUES CONSIDERED AND DECIDED

Pursuant to Section 10203 of the NASD Code of Arbitration Procedure, respondent Lee Duran was sent the Statement of Claim via regular mail and was given an opportunity to respond which

he failed to do. In addition, an overdue answer notice and notice of the identity of the arbitrator were sent regular mail.

Pursuant to the by-laws of the NASD, the arbitrator determined that respondent Lee Duran had notice of the claim, and was required to submit to this arbitration proceeding; and is, therefore, bound by the arbitrator's ruling and determination.

### **AWARD**

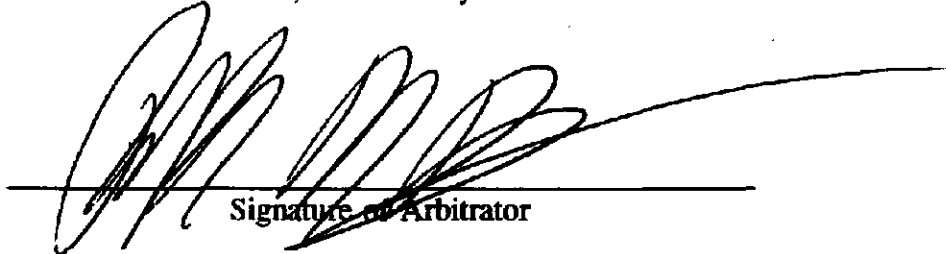
Pursuant to Section 10203 of the NASD, Inc. Code of Arbitration Procedure, a single Industry Arbitrator, Ralph M. Byer, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the claimant Biltmore Securities on May 13, 1996.

And, the Arbitrator, having considered the proof of the parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondent Lee Duran is liable and shall pay to the claimant Biltmore Securities, Inc. \$7,643.79 in actual damages.
2. Respondent Lee Duran is liable and shall pay to the claimant Biltmore Securities, Inc. simple interest at the rate of 12% per annum from March 21, 1995 to the date of payment of the award.
3. The parties shall bear their respective costs and attorney's fees.
4. The \$575.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by claimant Biltmore Securities, Inc. shall be retained by the NASD, Inc. Respondent Lee Duran is liable and shall pay to claimant Biltmore Securities, Inc. \$575.00 as reimbursement of the filing fee.

### **AFFIRMATION**

I, Ralph M. Byer, do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.



Signature of Arbitrator

DATE OF DECISION: December 23, 1996