

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Torrey Pines Securities, Inc.

96-02390

Name of Respondent

David Toper

CASE SUMMARY

In a case filed with the National Association of Securities Dealers Regulation, Inc. on June 4, 1996, claimant Torrey Pines Securities, Inc. ("Torrey") through its representative, Jack C. Smith of the company, alleged that respondent David Toper ("Toper") failed to repay his debt owed to the firm. Claimant further alleged that upon leaving the firm Toper owed \$12,933, resulting from advances against future commissions and expenses that were greater than earned revenues. Claimant also alleged that most of Toper's debits were from initial draws and advances paid to him based on his slated level of production.

Respondent through his representative, John P. Cione, maintained that claimant knows that he owes it nothing, as evidenced by the fact that claimant says he owes \$12,933 and is only asking for \$10,000.00. Respondent further maintained that claimant breached several industry practices which he was promised causing him resign and suffer monetary damages. Respondent also maintained that the management style of the firm became increasingly difficult to work for, thus he could not earn commissions at a rate that he had previously had. Respondent contended that there were charges against his revenues that were not approved, which resulted in his resignation.

RELIEF REQUESTED

Claimant Torrey Pines Securities, Inc., requested \$10,000.00, plus interest.

Respondent David Toper requested that the claims of claimant be dismissed in their entirety.

AWARD

Pursuant to 10203 of the Code of Arbitration Procedure, a single Industry Arbitrator, Donald Lisle, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by claimant Torrey Pines Securities, Inc. on May 30, 1996 and not by respondent David Toper as required by Sections 10201 and 10203 of the Code of Arbitration Procedure.

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 David Toper be and hereby is liable and shall pay claimant Torrey Pines Securities, Inc. \$10,000.00 in actual damages
2. Respondent David Toper be and hereby is liable and shall pay claimant Torrey Pines Securities simple interest at the rate of 7% per annum from September 11, 1995 to date of payment of the award.
3. The parties shall bear their respective costs.
4. The \$575.00 filing fee previously deposited with the National Association of Securities Dealers Regulation, Inc. by claimant shall be retained by the NASD Regulation, Inc.
5. All other relief requests are denied.

AFFIRMATION

I, Donald Lisle, 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.



Donald L. Lisle

Date of Decision: November 27, 1996