

# **NASD** Arbitration & Mediation

National Association of Securities Dealers, Inc. \* NASD Financial Center \* 33 Whitehall Street \* New York, NY 10004 \* Fax 212-858-4429  
Washington DC Satellite office at: 1735 K Street, NW \* Washington, DC 20006 \* Fax 202-728-6952

## **N.A.S.D. AWARD**

### **NATIONAL ASSOCIATION OF SECURITIES DEALERS**

---

In the Matter of the Arbitration Between

Name of Claimant

Fidelity National Capital Investors, Inc

96-02835

Name of Respondent

Michael L. Edwards

---

### **CASE SUMMARY**

In a case filed with the National Association of Securities Dealers Regulation, Inc. on July 2, 1996 claimant Fidelity National Capital Investors, Inc. ("Fidelity") through its representative and counsel Wayne A. Krause of the law firm Krause & Hirons located in Marietta, Georgia, alleged that respondent Michael L. Edwards ("respondent") owes it \$7,046.52. Claimant further alleged that respondent agreed that he would be paid a monthly draw and that if he did not earn sufficient commissions to cover the draw he would be responsible for repaying the difference. Claimant also alleged that respondent is indebted to it for \$7,046.52 for unearned advances against commissions.

Respondent who appeared Pro Se, maintained that at no time was it agreed, verbally or in writing that he would be responsible for repaying any difference in the monthly draw and the generated commissions during the transition period. Respondent further maintained that at no time was it stated or written that the draw was to be repaid if sufficient commissions were not generated. Respondent also maintained that it was not stated or written that the net payout/balance figure would be a liability to him if it was negative at the end of the six month period.

### **RELIEF REQUESTED**

Claimant Fidelity National Capital Investors, Inc. requested \$7,046.52, plus interest at a rate of 7% per annum and the filing fee.

Respondent Michael Edwards requested that the claims of claimant be dismissed in their entirety.

### **AWARD**

Pursuant to Section 10203 of the Code of Arbitration Procedure a single Industry Arbitrator, A. William McMahon, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by claimant Fidelity National Capital Investors, Inc. on June 10, 1996 and by respondent Michael Edwards on August 9, 1996.

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

1. Respondent Michael Edwards he and hereby is liable and shall pay claimant Fidelity National Capital Investors \$7,046.52 in actual damages.
2. All other relief requests are denied.
3. The \$575.00 filing fee previously deposited with the National Association of Securities Dealers Regulation, Inc. by claimant Fidelity National Capital Investors shall be retained by the NASD Regulation, Inc. Respondent Michael Edwards he and hereby is liable and shall pay claimant Fidelity National Capital Investors \$287.50 as reimbursement for one-half of the filing fee.

### **AFFIRMATION**

I, A. William McMahon, do hereby affirm upon my oath as arbitrator that I am the individual describe herein and who executed this instrument, which is my oath and award.



William A. McMahon

Date of Decision: December 23, 1996