

NASD REGULATION, INC. AWARD

NASD REGULATION, INC.

In the Matter of the Arbitration Between

Name of Claimant

First Cambridge Securities Corporation

96-03002

Name of Respondent

Howard Silverman

REPRESENTATION

For Claimant, First Cambridge Securities Corporation ("Claimant"), appeared Donna R. Shahrabani, Esq., of the law firm Anderson & Rottenberg located in New York, New York.

Respondent, Howard Silverman ("Respondent"), appeared Pro Se.

CASE INFORMATION

Statement of Claim filed: July 15, 1996.

Claimant's Submission Agreement signed on: July 12, 1996.

Statement of Answer filed by Respondent on: August 5, 1996.

Respondent's Submission Agreement signed on: August 2, 1996.

HEARING INFORMATION

The parties agreed to submit this matter to the panel on the basis of the pleadings and other documents provided and no hearings were held.

CASE SUMMARY

Claimant alleged that it is a securities dealer and that, on February 27, 1996, it entered into a written agreement with the Respondent (the "Agreement") by which the Respondent was hired as a registered representative. Claimant further alleged that the Agreement provided that for the first six months Respondent would receive \$4,000.00 per month as a draw against commissions of 60%. Claimant also alleged that from February 29, 1996 to April 30, 1996 it advanced Respondent \$10,000.00. Claimant

asserted that, pursuant to the Agreement, monies from any commissions Respondent earned would be applied first against the \$10,000.00 until paid in full. Claimant further asserted that, from February 1, 1996 to May 1, 1996, it paid \$672.56 in premiums for Respondent's health insurance. Claimant also asserted that in total, it advanced \$10,672.56 against Respondent's commissions. Claimant contended that Respondent did not earn any commissions and on May 15, 1996 he resigned and therefore owes Claimant \$10,672.56

Respondent maintained that he was hired by Claimant to establish and build its institutional sales and was employed from February 15, 1996 until he resigned on May 15, 1996. Respondent further maintained that, in discussions with Claimant before he was hired, he disclosed that in his previous job, because of the lead time required to build institutional sales, it had taken five months to establish a single institutional trade. Respondent also maintained that, since the Agreement provided any commissions earned would be first applied against the \$10,000.00 draw, and because there was no discussion of any promissory note before he was hired, Claimant assumed the risk that there would be no commissions. Respondent contended that, on May 10, 1996, the Agreement was modified so that he would receive what was owed to him on May 15, 1996 (\$2,000.00) then he would continue his employment on a month-to-month basis without any draw. Respondent further contended that, on May 15, 1996, Respondent was told, that in order to receive the \$2,000.00, he would have to sign a promissory note for \$12,000.00 made payable to the Claimant. Respondent also contended that he resigned rather than agree to pay the promissory note.

RELIEF REQUESTED

Claimant requested that the Respondent pay it \$10,672.56 plus interest, costs and attorney's fees.

Respondent requested dismissal of the action and that the Claimant pay him \$2,000.00.

OTHER ISSUES CONSIDERED AND DECIDED

Subsequent to his termination, Respondent filed an action in Small Claims Court to recover \$2,000.00 in commissions Respondent claimed he was owed by the Claimant. Claimant requested immediate injunctive relief preventing the small claims action from going forward until the matter could be heard in arbitration. On July 17, 1996, the panel issued an Order temporarily enjoining Respondent from proceeding with his action in Small Claims Court pending consideration of this matter in its entirety by the panel.

The parties have agreed to receive conformed copies of the Award while the originals remain on file with NASD Regulation, Inc.

AWARD

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

1. Claimant, First Cambridge Securities Corporation, be and hereby is liable and shall pay to the Respondent \$2,000.00 plus interest at 5.0% from May 15, 1996 to the date of payment by FCSC.

2. All requests for attorney fees are denied
3. All other requests for relief are denied.

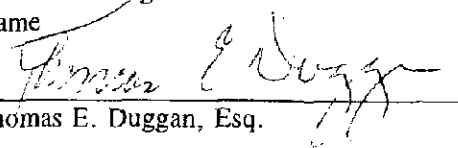
FORUM FEES

Pursuant to Rule 10205 of the Code of Arbitration Procedure, the arbitrator has determined that NASD Regulation, Inc. shall retain the \$500.00 non-refundable filing fee previously deposited by the Claimant and has determined that no forum fees are currently due and owing to NASD Regulation, Inc.

ARBITRATOR'S SIGNATURE

Arbitrator's Signature
Name

Public/Industry

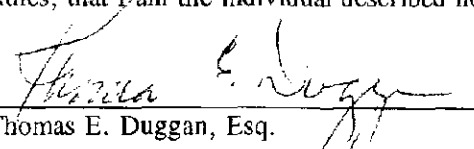

Thomas E. Duggan, Esq.

Date of Decision:

RECIPIENTS:

Thomas E. Duggan, Esq.

I, Thomas E. Duggan, Esq., do hereby affirm, pursuant to article 7507 of the Civil Practice Law and Rules, that I am the individual described herein, and who executed this instrument which is my award.


Thomas E. Duggan, Esq.