

N.A.S.D. ARBITRATION AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS REGULATION, INC.

In the Matter of the Arbitration Between

Name of Claimant

JW Charles Securities Inc

96-03247

Name of Respondent

Randall Rothenberg

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers Regulation, Inc. on July 29, 1996, claimant JW Charles Securities, Inc. ("Claimant"), through its representative and in-house counsel, Gregory Tendrich, Esq., averred that Respondent Randall Rothenberg ("Rothenberg") was a registered representative in its Boca Raton, Florida office. Claimant alleged that Rothenberg agreed to the terms of his employment agreement of February 21, 1996. Claimant further alleged that Rothenberg specifically agreed to receive \$4,000.00 per month for four months as a draw against commissions, 50% payout for the first six months of production and a 45% payout in months seven through twelve. Claimant also alleged that pursuant to the agreement Rothenberg was paid \$4,000.00 on March 29, 1996 and May 3, 1996. Claimant asserted that on May 8, 1996 Rothenberg resigned to "pursue a different career". Claimant further asserted that at the time of Rothenberg's resignation he was indebted to the firm in the amount of \$8,000.00. Claimant also asserted that Rothenberg has ignored its demand for payment and has failed to make payment on the outstanding amount.

Respondent Randall Rothenberg did not file an Answer to the Statement of Claim.

RELIEF REQUESTED

Claimant JW Charles Securities, Inc. requested that the panel award it the sum of \$8,000.00, statutory interest to date of collection, costs of pursuing arbitration in the amount of \$575.00, the NASD's member surcharge in the amount of \$100.00 and for such other and further relief as the panel may deem just and proper.

Respondent Randall Rothenberg did not file an Answer to the Statement of Claim.

OTHER ISSUES CONSIDERED AND DECIDED

Pursuant to Section 10302 of the NASD Code of Arbitration Procedure, respondent Randall Rothenberg 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 via certified mail and the signed return receipt card is on file with NASD.

Pursuant to the by-laws of the NASD, the arbitrator determined that Respondent Randall Rothenberg 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 Rule 10203 of NASD Regulation, Inc. Code of Arbitration Procedure, a single Industry Arbitrator, David P. Wardwell, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant JW Charles Securities, Inc. on July 25, 1996. Respondent Randall Rothenberg did not execute a Submission Agreement as required by Rules 10301 and 10302 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 Randall Rothenberg is liable and shall pay to claimant JW Charles Securities, Inc. \$8,000.00.
2. Respondent Randall Rothenberg is liable and shall pay to claimant JW Charles Securities, Inc. \$778.48 which represents interest at the rate of 12% per annum from June 18, 1996 to April 10, 1997.
3. The parties shall bear their respective costs.
4. The \$575.00 filing fee and previously deposited with National Association of Securities Dealers Regulation, Inc. by the claimant JW Charles Securities, Inc. shall be retained by NASD Regulation, Inc. Respondent Randall Rothenberg is liable and shall pay to the Claimant \$675.00 as reimbursement of the filing fee and member surcharge.
5. All other relief requests are denied.

AFFIRMATION

I, **David P. Wardwell**, 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.

A handwritten signature in cursive script, appearing to read "David P. Wardwell", written over a horizontal line.

Signature of Arbitrator

Date of Decision: June 5, 1997