

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

**NATIONAL ASSOCIATION OF SECURITIES DEALERS**

In the Matter of the Arbitration Between

Name of Claimant

Paragon Capital Corporation

96-03442

Name of Respondent

Todd W. Hedge

**REPRESENTATION**

For Claimant Paragon Capital Corporation ("Paragon"): Mitchell T. McRae, Esq. of Boca Raton, Florida.

The Respondent Todd Hedge ("Hedge") appeared pro se (see "Other Issues").

**CASE INFORMATION**

Statement of Claim filed: August 6, 1996.

Claimant's Submission Agreement signed on: August 1, 1996 by Marc I. Levine on behalf of Paragon.

Respondent Hedge did not file a Statement of Answer or sign a Submission Agreement as required by Sections 10201 and 10314 of the Code of Arbitration Procedure (see "Other Issues").

**HEARING INFORMATION**

A Pre-Hearing Conference lasting one (1) session was conducted on December 6, 1996 with the sole arbitrator.

A hearing lasting one (1) session was held on February 18, 1997 in Fort Lauderdale, Florida.

**CASE SUMMARY**

Claimant alleged that Respondent Hedge entered into an agreement and executed an Agreement and Promissory Note with Paragon on or about May 31, 1995 and that Hedge owes Paragon commission advances paid by the firm to him together with interest thereon, attorneys' fees and expenses. Claimant maintained that the employment agreement provided that the advances would only be forgiven if the Respondent attained a stated level of commission production within a stated period of time and Claimant alleged that Hedge did not meet the performance criteria provided in the agreement. Claimant further stated that Hedge was terminated for cause as defined in the agreement unrelated to his failure to meet the performance criteria.

### **RELIEF REQUESTED**

Claimant requested an award in its favor in the amount of \$11,701.66, together with interest at the legal rate and such other and further relief as the arbitrator may deem proper and just, including an award of costs, forum fees and reasonable attorney's fees.

### **OTHER ISSUES CONSIDERED & DECIDED**

Respondent Hedge did not file a Statement of Answer or an executed Submission Agreement nor did he attend the hearing on February 18, 1997. On December 26, 1996, the Claimant filed with NASD Regulation, Inc. a Return of Service Affidavit indicating service upon Respondent Hedge of various documents pertaining to this case including the Statement of Claim, the Hearing Advance Sheet indicating the time and place of the hearing as well as the name and background information of the arbitrator appointed to hear and decide the case.

Pursuant to Section 10101 of the Code of Arbitration Procedure ("Code"), the Arbitrator found subject matter jurisdiction over this entire controversy.

The Arbitrator further found that Respondent Hedge, who did not attend the hearing, was a person associated with an NASD Regulation, Inc. member firm at the time the controversy arose. Consequently, the Arbitrator found personal jurisdiction over Respondent Hedge pursuant to Section 10301 of the Code.

In view of the above the Arbitrator found that Respondent Hedge was required to file with NASD Regulation, Inc. a Statement of Answer and a properly executed Submission Agreement pursuant to Section 10314(b) of the Code.

In addition, in accordance with Section 10301, 10315 and 10318 of the Code, the Arbitrator found that Respondent Hedge was provided with "due notice" of the hearing conducted in this matter. The Arbitrator, therefore, determined to proceed with the hearing without Respondent Hedge.

### **AWARD**

After considering the pleadings, the testimony and the evidence presented at the hearing and post hearing submissions (if any), the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent Hedge is found liable and shall pay to the Claimant the amount of \$10,849.00 plus pre-judgment interest in the amount of \$1,617.52 for a total of \$12,466.52.
2. Further, Respondent Hedge is found liable and shall pay to the Claimant attorneys' fees in the amount of \$2,295.00 pursuant to the employment Agreement and Promissory Note executed by the parties.
3. Respondent Hedge shall reimburse the Claimant the \$1,000.00 forum fees previously paid to NASD Regulation, Inc.

**FORUM FEES**

Pursuant to Section 10205(c) of the Code of Arbitration Procedure, the Arbitrator has assessed Forum Fees in the amount of \$600.00 (one (1) hearing session X \$300.00 + one (1) pre-hearing conference X \$300.00).

1. Respondent Hedge is hereby assessed Forum Fees in the amount of \$600.00 for which NASD Regulation, Inc. shall retain the \$300.00 previously deposited by Claimant in partial satisfaction thereof, leaving a balance due to NASD Regulation, Inc. by Respondent of \$300.00.
2. NASD Regulation, Inc. shall retain the \$500.00 non-refundable filing fee paid by the Claimant.
3. NASD Regulation, Inc. shall retain the \$200.00 non-refundable member surcharge paid by the Claimant in accordance with Section 10333 of the Code.

Fees are payable to NASD Regulation, Inc.

**ARBITRATOR**

**Concurring Arbitrator's Signature**

/s/

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Steven M. Greenbaum, Esq.  
(Sole Industry Arbitrator)

Date of Decision: March 21, 1997