

AWARD

NASD Regulation, Inc. Office of Dispute Resolution

In the Matter of Arbitration Between

Raymond C. Robinson,

Claimant,

and

No. 96-03539

NationsSecurities,

Respondent.

REPRESENTATION OF PARTIES

Claimant, Raymond C. Robinson, was represented in pleadings pro se, and at the hearing by James C. Robinson, Jr., Esquire of Law Offices of Pat Maloney, P.C., located in San Antonio, Texas.

Respondent, NationsSecurities, was represented by Rodney Acker, Esquire of Jenkins & Gilchrist, located in Dallas, Texas.

CASE INFORMATION

Raymond C. Robinson's Statement of Claim was filed on or about August 16, 1996.

Raymond C. Robinson's Submission Agreement was signed on July 26, 1996.

NationsSecurities' Statement of Answer was filed on or about November 13, 1996.

NationsSecurities' Submission Agreement was signed on October 31, 1996 by Barry P. Harris, General Counsel of NationsSecurities.

HEARING INFORMATION

A large and complex administrative conference was held on January 22, 1997 for one (1) session.

The hearing was held on: June 24, 1997 for two (2) sessions; and June 25, 1997 for two (2) sessions.

The hearing was held in Houston, Texas.

CASE SUMMARY

Claimant, Raymond C. Robinson ("Claimant"), brought this action to recover damages allegedly sustained from NationsSecurities' wrongful termination of his employment and filing of a Form U-5 which misrepresented the circumstances of his termination.

According to Claimant, he was an employee of NationsSecurities ("Respondent") and entered into an Investment Officer Employment Agreement. Claimant stated that on or about October 31, 1994, he was fired by Respondent. Claimant averred that on November 22, 1994, a Form U-5 Uniform Termination Notice for Securities Industry Registration was filed with the various exchanges. Claimant further asserted that on the Form U-5 Mr. Henry Rose verified on behalf of NationsSecurities that Claimant was discharged for violation of company policy regarding monetary loans from customers. Claimant alleged that because of the filing of this false Form U-5, he had been unable to obtain employment in the securities industry since such time and had suffered damages caused by the wrongful, malicious, intentional, and defamatory conduct of NationsSecurities and its tortious interference with his business relations and business reputation.

Respondent denied the allegations set forth in the Statement of Claim as they related to any wrongdoing on its part. Respondent stated that paragraph 6 of the Investment Officer Employment Agreement, which Claimant and NationsSecurities entered into, provided that NationsSecurities may terminate Claimant at any time with or without cause. According to Respondent, after complaints from certain NationsSecurities' customers regarding Claimant's solicitations for personal loans from these customers, NationsSecurities discharged Claimant on or about October 31, 1994. Respondent further contended that, on or about November 22, 1994, Mr. Henry Rose, an employee of NationsSecurities, filed a Form U-5 reporting this termination, and, as required by Form U-5 under No. 12, Reason for Termination, the explanation was included. Respondent argued that Mr. Henry Rose's explanation, which was that the Claimant committed a violation of company policy regarding monetary loans from customers, was not false, wrongful, malicious, intentional, or defamatory. Respondent also asserted the following affirmative defenses: NationsSecurities actions were privileged and protected by law because it was required by regulation to provide the information that it did on the Form U-5; and, upon information and belief, Claimant violated firm policy by engaging in one or more unapproved outside business activities.

RELIEF REQUESTED

Claimant, Raymond C. Robinson, requested an award for \$1,500,000 in actual damages (= \$50,000 a year reduction in earnings capacity times 30 years) and \$1,500,000 in punitive damages.

Respondent, NationsSecurities, requested that Claimant, Raymond C. Robinson, be denied any recovery, and that it be awarded its costs and attorneys' fees.

OTHER ISSUES CONSIDERED AND DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the Award while the original(s) remain on file with the NASD Regulation, Inc. Office of Dispute Resolution.

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. The Statement of Claim is hereby denied in its entirety.
2. Other than forum fees, which are addressed below, all other claims and requests for relief not specifically awarded here are, and each of them, hereby denied with prejudice.

FORUM FEES

Forum fees are calculated at the rate of \$1,000 per hearing session and \$300 for each pre-hearing conference, if any. There was two (2) pre-hearing large and complex administrative conferences x \$300 and there were four (4) hearing sessions x \$1,000 = \$4,600 in forum fees. Pursuant to § 10205(b) of the NASD Code of Arbitration Procedure (the "Code") a hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less.

Pursuant to § 10205(c) of the Code, the NASD Regulation, Inc. Office of Dispute Resolution shall **retain** the non-refundable filing fee in the amount of \$500 and shall **retain** as forum fees the hearing session deposit in the amount of \$1,000 previously deposited with the NASD Regulation, Inc. Office of Dispute Resolution by Raymond C. Robinson.

Raymond C. Robinson is liable for and shall pay the NASD Regulation, Inc. Office of Dispute Resolution forum fees in the amount of \$1,220 (= ½\$4,600 total forum fees - \$1,000 hearing session deposit - \$80 previous overpayment).

Pursuant to § 10333 of the Code, the NASD Regulation, Inc. Office of Dispute Resolution shall **retain** the non-refundable member surcharge in the amount of \$500 previously deposited with the NASD Regulation, Inc. Office of Dispute Resolution by NationsSecurities.

NASD Regulation, Inc. Office of Dispute Resolution
Arbitration Number 96-03539
Award Page 4 of 4

The NASD Regulation, Inc. Office of Dispute Resolution shall **retain** postponement fees in the amount of \$1,000 previously deposited with the NASD Regulation, Inc. Office of Dispute Resolution by NationsSecurities.

NationsSecurities is liable for and shall pay the NASD Regulation, Inc. Office of Dispute Resolution postponement fees in the amount of \$1,000.

NationsSecurities is liable for and shall pay the NASD Regulation, Inc. Office of Dispute Resolution forum fees in the amount of \$2,300 (= ½\$4,600 total forum fees).

Fees are payable to the NASD Regulation, Inc. Office of Dispute Resolution.

Concurring Arbitrators' Signatures

Russell E. Rains, Esquire
Russell E. Rains, Esquire
Chairperson
Public Arbitrator

July 15, 1997
Dated:

Richard A. Hollenberg
Richard A. Hollenberg
Panelist
Public Arbitrator

July 29, 1997
Dated:

Steven J. Balaban
Steven J. Balaban
Panelist
Industry Arbitrator

July 21, 1997
Dated:

For NASD use only:
Date Award was served on the parties: July 30, 1997