

9881031

1/98

## NASD REGULATION AWARD

---

In the Matter of the Arbitration Between

Name of Claimant

Richard Deblase

96-04082

Name of Respondent

Tullett & Tokyo Securities, Inc.

---

### REPRESENTATION

For claimant Richard Deblase ("claimant") appeared Chaim A. Levin, Esq. of the law offices Richards & O'Neil, LLP, located in New York, New York.

For respondent Tullett & Tokyo Securities, Inc. ("respondent") appeared Herman L. Goldsmith, Esq. of the law offices Proskauer Rose Goetz & Mendelsohn LLP, located in New York, New York.

### CASE INFORMATION

Claimant's Statement of Claim was filed on: September 11, 1996.  
Claimant's Submission Agreement was signed on: August 26, 1996.

Respondent's Statement of Answer was filed on: October 31, 1996.  
Respondent's Submission Agreement was signed on: October 29, 1996.

### HEARING INFORMATION

Pre-Hearing Conference:	February 27, 1997	-	One Session
Hearing Dates/Sessions:	March 5, 1997	-	Two Sessions
	September 18, 1997	-	Two Sessions
	November 12, 1997	-	Two Sessions

The hearings were conducted at the offices of NASD Regulation, Inc., located in New York, New York.

### **CASE SUMMARY**

Claimant maintained that, from April 1, 1995 until he voluntarily resigned on June 25, 1996, he was employed by respondent as an inter-dealer broker and was responsible for brokering repurchase agreements ("repo") between primary and secondary dealers. Claimant contended that, pursuant to his agreement with respondent he was to earn a guaranteed base salary of \$175,000.00 and was to receive a bonus of 40% of the commissions he generated for the company less that portion of the base salary already paid to him. Claimant further alleged that the bonus compensation was not discretionary and that he was not required to be physically employed by respondent on the date the bonuses were scheduled to be paid. Claimant alleged that he received the base salary for the period he was employed, but that respondent did not pay him the bonus he had earned for the last six months of his employment.

Respondent contended that it advised claimant that if he came to work for it, he would receive an annual salary of \$175,000.00 and would be eligible to receive a bonus two times each year. Respondent alleged that claimant was informed that its policy for at will employees was that bonuses on the repo desk were paid solely to those people employed on the bonus payment date. Respondent further alleged that claimant was advised that the amount and timing of the bonuses were discretionary and could vary. Respondent contended that it never entered into an oral agreement with claimant whereby claimant's bonuses, if any, would be payable before the date that they were scheduled to be paid. Moreover, respondent maintained that claimant voluntarily left its employ before the bonus date and received all the compensation owed to him.

### **RELIEF REQUESTED**

Claimant requested entry of an award in his favor:

1. On the First Claim for Relief, for an amount not less than \$80,000.00, plus interest, costs attorneys' fees, and an accounting.
2. On the Second Claim for Relief, for an amount not less than \$78,751.00, plus interest, costs, attorneys' fees and liquidated damages in an amount equal to at least twenty-five percent of the money due and a statement of earnings.
3. On the Third Claim for Relief, for an award directing respondent to permit the inspection of the record of shareholders.
4. On all claims, for reimbursement of claimant's attorneys' fees, costs and disbursements.

Respondent requested that the Statement of Claim be dismissed in its entirety. Respondent also requested costs and disbursements of this proceeding.

**OTHER ISSUES CONSIDERED & 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 originals remain on file with the NASD.

**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. Claimant's request for compensatory damages is hereby denied.
2. Claimant's requests for costs, attorneys' fees liquidated damages and interest are hereby denied.
3. All other requests are hereby denied.

**FORUM FEES**

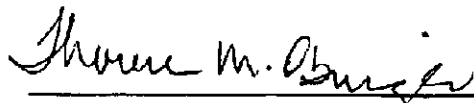
Pursuant to Rule 10205(c) of the Code of Arbitration Procedure, the arbitrators have determined that NASD Regulation, Inc. shall retain the \$500.00 non-refundable filing fee previously submitted by the claimant, and have assessed the following forum fees:

1 Pre-Hearing Conference x \$300.00	=	\$ 300.00
6 Hearing Sessions x \$600.00	=	\$3,600.00
Member Surcharge	=	\$ 300.00

1. Claimant be and hereby is liable for the sum of \$1,950.00, representing one-half of the total amount of forum fees assessed. Claimant previously deposited \$600.00 with NASD Regulation, Inc., and, therefore, claimant shall pay the balance of \$1,350.00.
2. Respondent be and hereby is liable for and shall pay the sum of \$1,950.00, representing one-half of the total amount of forum fees assessed.
3. Respondent be and hereby is liable for and shall pay the sum of \$300.00 for the Member Surcharge.

Fees are payable to NASD Regulation, Inc.

**ARBITRATORS' SIGNATURES**

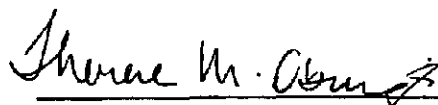
  
\_\_\_\_\_  
Therese M. Obringer, Esq.  
Chairperson-Industry Arbitrator

\_\_\_\_\_  
Christopher Swensen  
Industry Arbitrator

\_\_\_\_\_  
Judith C. Zerden, Esq.  
Industry Arbitrator


Date of Decision: January 16, 1998

I, **Therese M. Obringer, 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.

  
\_\_\_\_\_  
Therese M. Obringer, Esq.

**ARBITRATORS' SIGNATURES**

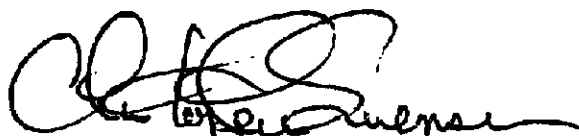
\_\_\_\_\_  
Therese M. Obringer, Esq.  
Chairperson-Industry Arbitrator

  
\_\_\_\_\_  
Christopher Swensen  
Industry Arbitrator

\_\_\_\_\_  
Judith C. Zerden, Esq.  
Industry Arbitrator

Date of Decision: January 16, 1998

I, Christopher Swensen, 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.

  
\_\_\_\_\_  
Christopher Swensen

950129

**ARBITRATORS' SIGNATURES**

\_\_\_\_\_  
Therese M. Obringer, Esq.  
Chairperson-Industry Arbitrator

\_\_\_\_\_  
Christopher Swensen  
Industry Arbitrator

\_\_\_\_\_  
Judith C. Zerden, Esq.  
Industry Arbitrator

Date of Decision: January 16, 1998

I, Judith C. Zerden, 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.

\_\_\_\_\_  
Judith C. Zerden, Esq.