

## NASD AWARD

NASD Regulation, Inc.

In the Matter of the Arbitration Between

Name of Claimant

David N. Weinstein

and

Name of Respondent

Chase Securities, Inc.

Case Number

96-05476

### REPRESENTATION OF PARTIES

For David N. Weinstein ("Claimant") appeared Jonathan P. Arfa, Esq., of Roosevelt & Arfa, LLP, located in White Plains, New York.

For Chase Securities, Inc. ("Respondent") appeared Stephen L. Ratner, Esq., of Rosenman & Colin, LLP, located in New York, New York.

### CASE INFORMATION

Claimant filed the Statement of Claim on December 6, 1996.

Claimant signed the Uniform Submission Agreement on December 27, 1996.

Claimant filed an Amended Statement of Claim on September 15, 1998.

Respondent filed the Statement of Answer on April 11, 1997.

Respondent signed the Uniform Submission Agreement on April 8, 1997.

Respondent filed an Amended Statement of Answer on September 25, 1998.

### HEARING INFORMATION

Pre-Hearing Conference:	March 25, 1998	One Session
	April 17, 1998	One Session

Hearing Dates:	October 2, 1998	Two Sessions
	October 5, 1998	Two Sessions

The hearings were held at the NASD Regulation, Inc., Office of Dispute Resolution ("NASD Regulation"), located in New York, New York.

### CASE SUMMARY

Claimant alleged that Respondent failed to properly compensate Claimant when he was terminated by Respondent. Claimant maintained that in 1994 he was employed with Respondent as a Managing Director of Respondent's High Yield Capital Markets. In order to hire Mark Lightcap ("Lightcap") as co-manager of Respondent's High Yield Capital Markets Group, Claimant alleged that Respondent's President, Paul Brandow ("Brandow"), sought Claimant's approval. In order to obtain Claimant's approval, Claimant alleged that Brandow assured Claimant that the terms and conditions of Claimant's employment with Respondent would be identical to those of Lightcap. Claimant asserted that he was terminated as a result of Respondent's merger with Chemical Bank, however, Lightcap's employment was not terminated due to a two year guaranteed compensation clause contained in Lightcap's employment contract. Claimant alleged that Respondent breached its agreement with Claimant by failing to compensate Claimant an amount equal to that paid to Lightcap in 1994 and 1995.

Respondent denied the allegations of wrong doing set forth in the Statement of Claim. Respondent maintained that Claimant was an "at-will" employee with no guaranteed compensation package and that Claimant's employment could be terminated at any time, for any reason or for no reason. While employed with Respondent, Respondent maintained that Claimant's compensation was determined annually on the basis of his performance. Respondent also maintained that Lightcap's offer of employment with Respondent was not contingent on Claimant's approval. Respondent contended that Claimant was advised by Paul Cohen, his immediate supervisor at the time, he and Lightcap had the same title that they would not receive the same compensation. Respondent asserted that Claimant's claim was barred by the statute of frauds in that the alleged agreement was not put in writing. Furthermore, Respondent maintained that Claimant was employed as an At-will employee in that there was not agreement establishing a fixed duration of employment.

### RELIEF REQUESTED

Claimant requested:

1. Compensatory damages not less than \$2,150,000.00.
2. Attorneys' fees and liquidated damages equal to 25% of the compensation awarded Claimant.

Respondent requested:

1. That the Statement of Claim be dismissed in its entirety.

2. Arbitration cost.
3. Any further relief deemed just and proper by the arbitration panel.

#### **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 original remain on file with NASD Regulation.

#### **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 dismissed in its entirety.
2. Respondent's request for Arbitration cost is denied.
3. Any other relief not specifically stated herein is denied.

#### **OTHER COST**

Pursuant to Rule 10333 of the NASD Code of Arbitration Procedure ("the Code") Respondent was assessed a member surcharge in the amount of \$500.00, which has been paid.

#### **FORUM FEES**

Pursuant to Rule 10332 of the Code, the arbitrators have determined that the NASD will retain the \$500.00 filing fee deposited by the Claimant.

The arbitrators have assessed the following forum fees:

2 Pre-Hearing Conference	x	\$1,000.00	=	\$2,000.00
4 Hearing Sessions	x	\$1,000.00	=	<u>\$4,000.00</u>
Total Forum Fees				

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Respondent has been assessed \$6,000.00 representing the total amount of forum fees assessed. Claimant previously submitted a \$1,000.00 hearing session deposit. Therefore, Respondent shall pay to NASD Regulation, Inc., \$5,000.00 in satisfaction of outstanding forum fees. Respondent shall reimburse Claimant the \$1,000.00 hearing session deposit.

**Fees are payable to NASD Regulation, Inc.**

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**ARBITRATION PANEL**

Michael J. McAllister, Esq. - Industry Chairperson  
C. Anthony Bell - Industry Panelist  
Joel Faber - Industry Panelist

**ARBITRATOR'S SIGNATURE**

I, Michael McAllister, 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.



Michael J. McAllister, Esq.  
Industry Chairperson

Date Decision Served by NASD Regulation, Inc.: November 11, 1998

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**ARBITRATED PANEL**

Michael J. McAllister, Esq. - Industry Chairperson  
C. Anthony Bell - Industry Panelist  
Joel Faber - Industry Panelist

**ARBITRATOR'S SIGNATURE**

I, C. Anthony Bell, 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.

C. Anthony Bell  
C. Anthony Bell  
Industry Panelist

Date Decision Served by NASD Regulation, Inc.

November 11, 1998

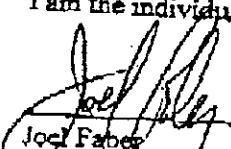
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**ARBITRATION PANEL**

Michael J. McAllister, Esq. - Industry Chairperson  
C. Anthony Bell - Industry Panelist  
Joel Faber - Industry Panelist

**ARBITRATOR'S SIGNATURE**

I, Joel Faber, 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.

  
Joel Faber  
Industry Panelist

Date Decision Served by NASD Regulation, Inc.:

 November 11, 1996