

NASD REGULATION, INC.  
AWARD

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In the Matter of the Arbitration Between

Name of Claimant

Christian A. Walkowicz

96-05585

Name of Respondent

Laidlaw Equities, Inc.

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REPRESENTATION

For Claimant Christian A. Walkowicz ("Claimant") appeared Kevin P. Conway, Esq., of the firm Conway & Conway, located in New York, New York.

For Respondent Laidlaw Securities, Inc. ("Respondent") appeared Edward Werner, Esq., with offices located in Jackson, New Jersey.

CASE INFORMATION

Statement of Claim was filed on December 16, 1996.

Claimant's Submission Agreement was signed on December 16, 1996.

Statement of Answer was filed by Respondent on April 17, 1997.

Respondent's Submission Agreement was signed on March 10, 1997.

HEARING INFORMATION

Pre-Hearing Conference:	June 27, 1997	-	Panel
	September 8, 1997	-	One Arbitrator
	September 19, 1997	-	Panel
Hearing Dates/Sessions:	September 22, 1997	-	Two Sessions
	September 23, 1997	-	Two Sessions
	November 10, 1997	-	One Session
	February 9, 1998	-	Two Sessions
	February 10, 1998	-	Two Sessions

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

### CASE SUMMARY

Claimant alleged that, in May 1995, she accepted a position as Managing Director of Laidlaw International, Inc., and that she was compensated with a base salary of \$100,000.00 per annum, plus a bonus based on a revenue equation. Claimant further alleged that her responsibility was to expand Respondent's international business and to seek out new revenue opportunities, which she did.

Claimant alleged that, in September 1996, she solicited a brokerage agreement for Respondent with INA S.I.M. ("INA"), an Italian company. Claimant further alleged that, as a result, she was to receive a certain percentage of the commissions earned by Respondent from INA. Claimant also alleged that, on November 14, 1996, Respondent terminated her employment and refused to pay commissions due to her. Claimant asserted that Respondent breached its contract with her, fraudulently induced her to enter into the contract and then terminate her, and that Respondent was unjustly enriched.

Respondent maintained that Claimant was hired by Paul Bagley ("Bagley"), a personal friend of Claimant, as a favor and that she was put into a position created for her. Respondent further maintained that, in the course of Claimant's employment, she generated no new revenue for the firm. Respondent also maintained that Claimant met once with representatives from INA and concluded that she did not have the expertise to service them. Respondent asserted that, at this time, Claimant requested that an asset manager meet with INA to discuss the services Respondent could offer them. Respondent further asserted that it reduced Claimant's salary, and that, in order to compensate her, as a courtesy Bagley offered her commissions from the revenue generated from INA. Respondent also asserted that at no time did it or Bagley indicate to Claimant that these commission payments would be made subsequent to her employment.

Respondent maintained that, in September 1996, it went through a reorganization and ownership change. Respondent further maintained that at this time it was determined that Claimant's position was costing money since she was generating no new revenue, and as a result, Claimant was given the opportunity to resign and informed that her employment would be terminated. Respondent also maintained that it filed Claimant's Form U-5 listing the reason for termination as "staff reduction" rather than discharge, as a professional courtesy.

### RELIEF REQUESTED

Claimant requested:

- (a) On the first and second causes of action, compensatory damages in an amount to be determined, but not less than \$100,000.00, together with punitive damages in an amount to be determined;

- (b) On the third cause of action, compensatory damages in an amount to be determined, but not less than \$100,000.00, together with punitive damages in an amount to be determined and an additional award to this action of compensatory damages in an amount no less than \$100,000.00, together with punitive damages;
- (c) On the fourth cause of action, compensatory damages in an amount to be determined, but not less than \$100,000.00, together with reasonable attorney's fees and liquidated damages in an amount to be determined;
- (d) All future commissions as provided in the agreement between Claimant and Respondent;
- (e) On all causes of action, applicable statutory interest; and
- (f) Such other and further relief as the panel deems appropriate.

Respondent requested that the Statement of Claim be dismissed in its entirety and that it be awarded the costs of this arbitration, including but not limited to, attorneys' fees, the loss of production by personnel, and the costs associated with travel.

#### **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 remains on file with the NASD.

Respondent made a motion to amend the Statement of Answer to add a third party claim. The panel denied this motion with leave to reraise it at a later date. Respondent did not reraise the motion.

#### **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. Respondent is hereby liable and shall pay to Claimant compensatory damages in the amount of \$13,500.00, plus interest at the rate of 9% per annum from November 30, 1996 until the date the award is satisfied.
2. Claimant's request for punitive damages is denied.
3. Each party shall bear its respective costs, including attorneys' fees.
4. All other requests for relief are hereby denied.

**FORUM FEES**

Pursuant to Rule 10205(c) of the NASD Regulation Code of Arbitration Procedure, the arbitrators have determined that the NASD will retain the \$500.00 non-refundable filing fee paid by Claimant and the \$300.00 member surcharge paid by Respondent and have assessed the following Forum Fees:

2 pre-hearing conferences (panel) x \$600.00	= \$1,200.00
1 pre-hearing conference (single arbitrator) x \$300.00	= \$ 300.00
9 hearing sessions x \$600.00	= <u>\$5,400.00</u>
Total Forum Fees	= \$6,900.00

1. Claimant is liable for the sum of \$600.00, representing the fee for one hearing session. Claimant previously deposited \$600.00 with NASD Regulation, Inc., and, therefore, Claimant owes no additional forum fees.
2. Respondent is hereby liable for the sum of \$6,300.00, representing the outstanding forum fees. Respondent previously deposited \$1,100.00 with NASD Regulation, Inc., and, therefore, Respondent shall pay the balance of \$5,200.00.

Fees are payable to NASD Regulation, Inc.

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ARBITRATORS' SIGNATURES

Richard E. Lerner

Richard E. Lerner, Esq.  
Chairperson - Public Arbitrator

Date of decision: March 17, 1998

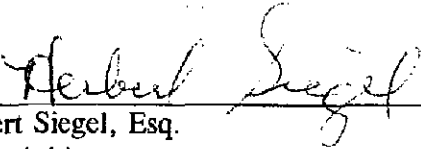
I, Richard E. Lerner, Esq., do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

Richard E. Lerner

Richard E. Lerner, Esq.

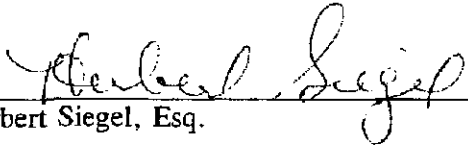
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**ARBITRATORS' SIGNATURES**

  
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Herbert Siegel, Esq.  
Public Arbitrator

Date of decision: March 17, 1998

I, **Herbert Siegel, 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.

  
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Herbert Siegel, Esq.

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ARBITRATORS' SIGNATURES

A handwritten signature in cursive script, appearing to read "Daniel E. Miller", written over a horizontal line.

Daniel E. Miller, Esq.  
Industry Arbitrator

Date of decision: March 17, 1998

I, Daniel E. Miller, 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.

A handwritten signature in cursive script, appearing to read "Daniel E. Miller", written over a horizontal line.

Daniel E. Miller, Esq.