

**AWARD****NASD REGULATION, INC., OFFICE OF DISPUTE RESOLUTION**

In the matter of the Arbitration Between

**Name of Claimant**

Everen Securities, Inc.

v.

Arbitration No.  
97-00051**Name of Respondent**

Lambert Vander Tuig

**REPRESENTATION**

For Claimant:

Diane C. Fischer, Esq.  
Gomberg, Kane & Fischer, Ltd.  
Chicago, Illinois

For Respondent:

No appearance

**CASE INFORMATION**

Statement of Claim filed:

January 6, 1997

Claimant's Submission Agreement signed:

January 3, 1997

Statement of Answer filed by Respondent:

None filed

Respondent's Submission Agreement signed:

None signed

**HEARING INFORMATION**

Pre-Hearing Conference Dates / Sessions:

May 14, 1997 (1 Session)  
June 5, 1997 (1 Session)

Hearing Dates / Sessions:

August 25, 1997 (1 Session)

Hearing Location:

Los Angeles, California

### CASE SUMMARY

Claimant claimed that Respondent failed to repay debt owed to Claimant pursuant to a promissory note signed by Respondent.

Respondent did not file an answer.

### RELIEF REQUESTED

Claimant requested an award of \$37,500.00 for the principal balance allegedly due and owing under the note, \$1,403.28 in interest allegedly accrued during the term of the note at the contract rate of 8%, and \$1,711.25 in interest on the balance allegedly due and owing under the note from the date of the default, July 2, 1996, to January 3, 1997 at the contract rate of 9% per annum.

Claimant also requested interest on the balance allegedly due and owing under the note at \$9.25 per day from January 3, 1997 to the date of payment, and \$3,733.81 in allegedly unreimbursed taxes which Claimant paid on Respondent's behalf relating to the January 10, 1996 forgiveness under the terms of the note. Claimant further requested collection costs, including attorney's fees as agreed to under the terms of the note.

### OTHER ISSUES CONSIDERED AND DECIDED

On June 5, 1997 the Arbitration Panel ruled that Respondent was barred from presenting any matter, arguments of defenses at the hearing pursuant to NASD Code of Arbitration Procedure Rule 10314(b)(2)(C).

The parties have agreed that the Award in this matter may either 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 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. Respondent is liable to and shall pay Claimant the sum of \$37,500.00, which represents the principal balance on the promissory note dated December 28, 1994.
2. Respondent is liable to and shall pay Claimant the sum of \$1,430.28 for interest accrued on the note at the contract rate of 8% from January 10, 1996 through July 2, 1996.

3. Respondent is liable to and shall pay Claimant the sum of \$3,875.75 for interest accrued on the balance due and owing under the note from July 2, 1996 to August 25, 1997 at the rate of 9%.
4. Respondent is liable to and shall pay Claimant the sum of \$3,733.81 for unreimbursed tax payments relating to the note.
5. Respondent is liable to and shall pay Claimant the sum of \$4,659.50 for attorney's fees pursuant to the terms of the note.
6. Respondent is liable to and shall pay Claimant the sum of \$1,771.03 for arbitration costs.

#### **FORUM FEES**

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following forum fees are assessed against Claimant:

One Pre-Hearing Conference Session @ \$600.00/Session	= \$1,200.00
One Hearing Session @ \$600.00/Session	= \$600.00
Total Fees Assessed against Claimant	= \$1,800.00
Credit for Hearing Session Deposit	= (\$600.00)
Claimant's Balance Due	= \$1,200.00

Fees are payable to NASD Regulation, Inc.

ARBITRATORS

<u>Name</u>	<u>Public / Industry</u>
William M. Montgomery, Esq.	Industry Arbitrator
Larry Maize	Industry Arbitrator
George J. Rosen	Industry Arbitrator

Concurring Arbitrators' Signatures

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William M. Montgomery, Esq.

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Larry Maize

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George J. Rosen

Date of Service: \_\_\_\_\_

ARBITRATORS

<u>Name.....</u>	<u>Public / Industry</u>
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Larry Maize	Industry Arbitrator
George J. Rosen	Industry Arbitrator

Concurring Arbitrators' Signatures

  
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William M. Montgomery, Esq.

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Larry Maize

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George J. Rosen

Date of Service: \_\_\_\_\_

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ARBITRATORS

NASD-Arbitration Mediation

<u>Name</u>	<u>Public / Industry</u>
William M. Montgomery, Esq.	Industry Arbitrator
Larry Maize	Industry Arbitrator
George J. Rosen	Industry Arbitrator

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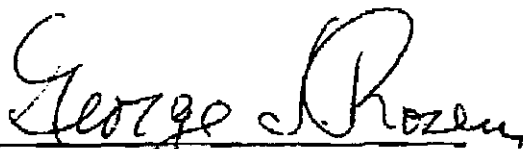
Concurring Arbitrators' Signatures

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William M. Montgomery, Esq.

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Larry Maize

  
George J. Rosen

Date of Service: SEPTEMBER 19, 1997