

**IN ARBITRATION  
UNDER CHAPTER XVIII OF THE RULES  
OF THE CHICAGO BOARD OPTIONS EXCHANGE, INCORPORATED**

|                                       |   |                 |
|---------------------------------------|---|-----------------|
| IN THE MATTER OF                      | ) |                 |
|                                       | ) |                 |
| Sean Moran,                           | ) |                 |
|                                       | ) |                 |
| Claimant,                             | ) | DECISION        |
|                                       | ) |                 |
| v.                                    | ) | File No. 98M011 |
|                                       | ) |                 |
| Robert C. Sheehan & Associates, Inc., | ) |                 |
| Robert C. Sheehan and                 | ) |                 |
| Joseph Sullivan,                      | ) |                 |
|                                       | ) |                 |
| Respondents.                          | ) |                 |
|                                       | ) |                 |

**Representation**

|                    |   |
|--------------------|---|
| For Claimant:      | Morton H. Cohon, Chicago, Illinois                              |
| For Respondent(s): | Ronald P. Kane, Gomberg Kane & Fischer, Ltd., Chicago, Illinois |

**Pleadings**

|  |          |
|--|----------|
| Statement of Claim, filed on or about:                         | 12/31/98 |
| Claimant's Submission Agreement, filed on or about             | 01/08/99 |
| Answer and Counterclaim, filed on or about:                    | 02/22/99 |
| Respondents' Submission Agreement, filed on or about           | 02/24/99 |
| First Amended Answer, filed on or about:                       | 03/02/99 |
| Answer to Job Abandonment and Counter-Claim, filed on or about | 03/18/99 |

**Hearing**

The named parties appeared at the hearing specified below, and had full opportunity to present arguments and evidence.

|                  |                   |
|------------------|-------------------|
| Date(s):         | July 28, 1999     |
| No. of Sessions: | 2                 |
| Location:        | Chicago, Illinois |

**Summary of Issues**

On December 31, 1999, Sean Moran ("Claimant") filed a claim against Robert C. Sheehan & Associates, Inc., Robert C. Sheehan and Joseph Sullivan ("Respondents"). Claimant alleges that he accepted a position as a floor broker with Respondents' equity desk operation in February, 1997, based upon Respondents promise to pay Claimant \$3,000 per month, plus 50% of the profits after expenses. Claimant asserts that in determining expenses the parties agreed to cap expenses at \$15,000 per month. Claimant further asserts that despite his bringing in new clients and despite the increase in revenue generated by Claimant's efforts, Respondents failed to distribute profits as promised, either quarterly or on January 31, 1998.

Claimant seeks an award against Respondents in the amount of \$56,868, based upon Claimant's calculation of a net profit of \$113,736 for the equity desk during the time period from February through December of

1997. Claimant also seeks an award of interest in the amount accruing from the date the profits were first to be divided. In addition, Claimant requests punitive damages in the amount of \$20,000 for Respondents' alleged deceitful conduct. During the hearing, Claimant requested an award of attorneys fees in an amount to be determined.

Respondents acknowledge an agreement with Claimant to split net profits, but deny that expenses were to be capped at a predetermined amount. Respondents further deny that their equity business had a net profit during the time period from February through December 1997. In addition, Respondents allege that Claimant abandoned his employment with Respondents upon learning that the equity desk was not profitable and learning that he would not receive a profit sharing bonus. Respondents assert no further consideration is due to Claimants. Respondents seek an award against Claimant for attorneys fees and arbitration costs. During the hearing, Respondents requested an award of the costs of their audit in an amount to be specified.

#### **Award\***

After due deliberation and consideration of the hearing testimony, documentary evidence, and other submissions of the parties, the undersigned arbitrators, in full and final resolution of all matters in controversy, award as follows:

1. Claimant is denied any and all awards, including attorneys fees.
2. Claimant shall pay Respondent \$3,425 for attorneys fees.

#### **Forum Fees**

Pursuant to Exchange Rule 18.33, the Arbitrators assess forum fees in the total amount of \$1,700 (\$500 filing fee plus 2 times the \$600 hearing session fee<sup>\*\*\*</sup>) as follows:

1. Claimant is liable for and shall pay to the Exchange the sum of \$600.
2. Exchange shall retain the non-refundable filing fee in the amount of \$500 and the hearing session deposit in the amount of \$600 previously submitted by Claimant.

|  |                           |
|--|---------------------------|
| <u>/s/ Brian H. Egert</u><br>Brian H. Egert, Chair   | <u>09/02/1999</u><br>Date |
| <u>/s/ Stephen P. Donahue</u><br>Stephen P. Donahue, | <u>09/02/1999</u><br>Date |
| <u>/s/ Mark E. Kalas</u><br>Mark E. Kalas            | <u>09/02/1999</u><br>Date |

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\* Pursuant to Exchange Rule 18.31, all monetary awards shall be paid within thirty (30) days of receipt unless a motion to vacate has been filed with a court of competent jurisdiction.

\*\*\* Under Exchange Rule 18.33(b), a hearing session is any meeting between the parties and the arbitrator(s) that lasts 4 hours or less.