

AWARD
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between

First Union Securities, f/k/a
Everen Securities, Inc.

and

99-00544
Omaha, Nebraska

Terrel L. Beckwith

REPRESENTATION OF PARTIES

First Union Securities, f/k/a Everen Securities, Inc. ("Claimant") was represented by Ronald Kane, Esq., Kane & Fischer, Ltd., Chicago, Illinois.

Terrel L. Beckwith a/k/a Terrell L. Beckwith ("Respondent") was represented by Gail Boliver, Esq., Boliver Law Firm, Marshallton, Iowa.

CASE INFORMATION

The Statement of Claim was filed on or about February 8, 1999. Submission Agreement of Claimant, First Union Securities, f/k/a Everen Securities, Inc. was signed on or about February 8, 1999, by A. Brad Busscher.

Claimant filed a Motion to Bar Respondent from presenting any facts of defenses at the Hearing in the Matter on or about September 2, 1999. Respondent filed a Response to the Motion on or about September 7, 1999.

No Statement of Answer was filed by Respondent Terrel L. Beckwith. No Uniform Submission Agreement was filed by Respondent Terrel L. Beckwith.

CASE SUMMARY

Claimant alleged that Respondent failed to repay the balance due on a promissory note signed during his employment with Claimant. Claimant further alleged that Respondent failed to repay unearned commissions owed to Claimant.

Respondent filed a Suggestion in Bankruptcy on or about May 22, 2000.

RELIEF REQUESTED

Claimant requested an award in the amount of the principle balance due and owing under the Note on \$193,407.96, plus interest, costs including attorneys' fees, and any other relief as the Arbitrators deem just and equitable.

OTHER ISSUES CONSIDERED & DECIDED

Respondent Terrel L. Beckwith did not file with the NASD Dispute Resolution, Inc. a properly executed submission to arbitration but is required to submit to arbitration pursuant to Rule 10301 of the NASD Code of Arbitration Procedure (the "Code") and appeared and testified at the hearing is bound by the determination of the arbitration panel on all issues submitted.

The Panel granted Claimant's Motion to Bar Respondent from presenting any facts of defenses at the Hearing in the Matter. The Panel denied Respondent's Request to File an Answer and Counter-Claims.

NASD Dispute Resolution (the "NASD") closed the matter on or about May 22, 2001, upon receipt of Respondents Bankruptcy filing. NASD reopened the matter on or about January 11, 2001, upon being advised that the bankruptcy was dismissed.

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(s) remain on file with the NASD Dispute Resolution, Inc.

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing and the post-hearing submissions, if any, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

- 1.) Respondent, Terrel L. Beckwith, is solely liable for and shall pay to Claimant, First Union Securities, Inc., f/k/a Everen Securities, Inc., the sum of \$145,055.97 in compensatory damages;
- 2.) Respondent, Terrel L. Beckwith, is solely liable for and shall pay to Claimant, First Union Securities, Inc. f/k/a Everen Securities, Inc., interest in the amount of \$31,347.98 for the period from and inclusive of December 11, 1998, to and inclusive of August 23, 2001;
- 3.) Respondent, Terrel L. Beckwith is solely liable for and shall pay to Claimant, Everen Securities, Inc., interest at the rate of 7.00% per annum on the sum stated in Paragraph Number One above from and inclusive of August 24, 2001, to and inclusive of the date this Award is paid in full;
- 4.) Respondent, Terrel L. Beckwith, is solely liable for and shall pay to Claimant, First Union Securities, Inc., f/k/a Everen Securities, Inc., the sum of \$21,569.00 in attorney fees, pursuant to the Promissory Note of January 9, 1999;

- 5.) Pursuant to the above paragraph numbers 1 - 4 Respondent, Terrel L. Beckwith, is solely liable for and shall pay to Claimant, First Union Securities, Inc., f/k/a Everen Securities, Inc., the sum of \$197,972.95, plus interest. Such sum is due according to the following payment schedule:
- a. 25% is due in 30 days from Date of Service of the Award (Payment #1);
 - b. The balance, including interest, is due in twelve equal quarterly payments, to be paid on the first business day of each quarter, beginning three months after Payment #1;
- 6.) That other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter, including but not limited to attorneys fees; and
- 7.) That to the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto, including punitive and exemplary damages, are denied with prejudice.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution, Inc. will retain the non-refundable filing fees for each claim:
Initial claim filing fee = \$500.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person at the time of the events giving rise to the dispute. In this matter, the member firm is First Union Securities, Inc. f/k/a Everen Securities, Inc.

Member surcharge = \$1,500.00
Pre-hearing process fee = \$ 600.00
Hearing process fee = \$2,500.00

Forum Fees and Assessments

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) Pre-hearing sessions with Panel x \$750.00 = \$1,500.00
Pre-hearing conferences: September 1, 1999 1 session
April 6, 2001 1 session

One (1) Hearing session x \$750.00 = \$ 750.00
Hearing Date: August 23, 2001 1 session
Total Forum Fees = \$2,250.00

The Arbitration Panel has assessed \$2,250.00 of the forum fees to Terrel L. Beckwith.

Fee Summary

Claimant, First Union Securities, Inc., f/k/a Everen Securities, Inc., is liable for:

Initial Filing Fee	= \$ 500.00
Member Fees	= \$ 4,600.00
Forum Fees	= \$ 0.00
Total Fees	= \$ 5,100.00
Less payments	= \$ 5,100.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

Respondent, Terrel L. Beckwith, is liable for:

Forum Fees	= \$ 1,500.00
Total Fees	= \$ 0.00
Less payments	= \$ 750.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 750.00

All balances are due to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

Mary K. Fay - Non-Public, Presiding Chair
Robert B. Paul - Non-Public Arbitrator
Richard L. Ricketts - Non-Public Arbitrator

Concurring Arbitrators:

Mary K. Fay
Non-Public Arbitrator, Presiding Chair

Signature Date

Robert B. Paul
Non-Public Arbitrator

Signature Date



Richard L. Ricketts
Non-Public Arbitrator



Signature Date

Date of Service (For NASD office use only)

NASD Dispute Resolution, Inc.
Arbitration # 99-00544
Award Page 4 of 4

One (1) Hearing session x \$750.00 = \$ 750.00
Hearing Date: August 23, 2001 1 session
Total Forum Fees = \$2,250.00

The Arbitration Panel has assessed \$2,250.00 of the forum fees to Terrel L. Beckwith.

Fee Summary

Claimant, First Union Securities, Inc., f/k/a Everen Securities, Inc., is liable for:

Initial Filing Fee	= \$ 500.00
Member Fees	= \$ 4,600.00
Forum Fees	= \$ 0.00
Total Fees	= \$ 5,100.00
Less payments	= \$ 5,100.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

Respondent, Terrel L. Beckwith, is liable for:

Forum Fees	= \$ 1,500.00
Total Fees	= \$ 0.00
Less payments	= \$ 750.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 750.00

All balances are due to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

Mary K. Fay - Non-Public, Presiding Chair
Robert B. Paul - Non-Public Arbitrator
Richard L. Ricketts - Non-Public Arbitrator

Concurring Arbitrators:

Mary K. Fay
Non-Public Arbitrator, Presiding Chair

Signature Date

Robert B. Paul
Non-Public Arbitrator

9/25/01
Signature Date

Richard L. Ricketts
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

FROM :

09/24/01 MON 11:30 FAX

FAX NO. :

Dec. 22 2000 07:35PM P2

NASD REGULATION

006

NASD Dispute Resolution, Inc.
Arbitration # 00-00544
Award Page 4 of 4

One (1) Hearing session x \$750.00 = \$ 750.00
Hearing Date: August 23, 2001 1 session
Total Forum Fees = \$2,250.00

The Arbitration Panel has assessed \$2,250.00 of the forum fees to Terrel L. Beckwith.

Fee Summary

Claimant, First Union Securities, Inc., f/k/a Everen Securities, Inc., is liable for:

Initial Filing Fee	= \$ 500.00
Member Fees	= \$ 4,600.00
Forum Fees	= \$ 0.00
<u>Total Fees</u>	= \$ 5,100.00
<u>Less payments</u>	= \$ 5,100.00
<u>Balance Due NASD Dispute Resolution, Inc.</u>	= \$ 0.00

Respondent, Terrel L. Beckwith, is liable for:

<u>Forum Fees</u>	= \$ 1,500.00
<u>Total Fees</u>	= \$ 0.00
<u>Less payments</u>	= \$ 750.00
<u>Balance Due NASD Dispute Resolution, Inc.</u>	= \$ 750.00

All balances are due to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

Mary K. Fay - Non-Public, Presiding Chair
Robert B. Paul - Non-Public Arbitrator
Richard L. Ricketts - Non-Public Arbitrator

Concurring Arbitrators:

Mary K. Fay
Mary K. Fay
Non-Public Arbitrator, Presiding Chair

9-25-01
Signature Date

Robert B. Paul
Robert B. Paul
Non-Public Arbitrator

Signature Date

Richard L. Ricketts
Richard L. Ricketts
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)