

**Award**  
**NASD Regulation, Inc.**

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In the Matter of the Arbitration Between:

Frank C. Forelle, (Claimant) vs. Citicorp Securities, Inc., (Respondent)

Case Number: 99-00570

Hearing Site: New York, New York

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**REPRESENTATION OF PARTIES**

Claimant, Frank C. Forelle ("Forelle"), hereinafter referred to as "Claimant": Andrew S. O'Connor, Esq., New York, NY.

Respondent, Citicorp Securities, Inc. ("Citicorp"), hereinafter referred to as "Respondent": Joseph Baumgarten, Esq., Proskauer Rose LLP, New York, NY.

**CASE INFORMATION**

Statement of Claim filed on or about: February 9, 1999.

Claimant signed the Uniform Submission Agreement: February 9, 1999.

Statement of Answer filed by Respondent on or about: June 28, 1999.

Respondent signed the Uniform Submission Agreement.

**CASE SUMMARY**

Claimant asserted the following cause of action: failure and refusal to pay earned bonus compensation.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses: Respondent had no obligation, contractual or otherwise, to pay Claimant a bonus of any specified amount - or any bonus at all; Respondent's policy makes clear that the payment of bonuses is entirely discretionary; and Claimant's resignation in August 1998 in and of itself rendered him ineligible to receive a bonus for that year.

### **RELIEF REQUESTED**

Claimant requested damages in the amount of \$1,115,000.00 in respect of his 1997 performance; damages in the amount of \$875,000.00 in respect of his 1998 performance; costs and expenses of this arbitration; and such other relief as the Arbitrators deem appropriate.

Respondent requested that Claimant's claim be dismissed.

### **OTHER ISSUES CONSIDERED AND DECIDED**

During the hearings in this matter, Respondent made a motion to dismiss which was denied by the Panel.

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.

### **AWARD**

After considering the pleadings, the testimony and evidence presented at the hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent be and hereby is liable and shall pay to Claimant the sum of \$130,000.00 as compensatory damages, plus simple interest at the rate of 9% which will begin to accrue after 30 days from receipt of the Award by the parties' counsel.
2. All other requests for relief are hereby denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

NASD Regulation, Inc. will retain or collect 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, Citicorp Securities, Inc. is a party.

Member surcharge	= \$2,500.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$4,500.00

### Forum Fees and Assessments

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

Two (2) Pre-hearing sessions with Panel x \$1,000.00	= \$2,000.00
Pre-hearing conferences:	
October 18, 1999	1 session
March 1, 2000	1 session
Five (5) Hearing sessions x \$1,000.00	= \$5,000.00
Hearing Dates:	
February 15, 2000	2 sessions
February 16, 2000	2 sessions
May 15, 2000	1 session
Total Forum Fees	= \$7,000.00

1. The Panel has assessed \$3,500.00 of the forum fees against Claimant.
2. The Panel has assessed \$3,500.00 of the forum fees against Respondent.

### Fee Summary

1. Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$ 500.00
Forum Fees	= \$3,500.00
Total Fees	= \$4,000.00
Less payments	= \$1,500.00
Balance Due NASD Regulation, Inc.	= \$2,500.00

2. Respondent be and hereby is solely liable for:

Member Fees	= \$ 7,600.00
<u>Forum Fees</u>	= <u>\$ 3,500.00</u>
Total Fees	= \$11,100.00
<u>Less payments</u>	= <u>\$ 3,100.00</u>
Balance Due NASD Regulation, Inc.	= \$ 8,000.00

All balances are due and payable to NASD Regulation, Inc.

**Concurring Arbitrators' Signatures**

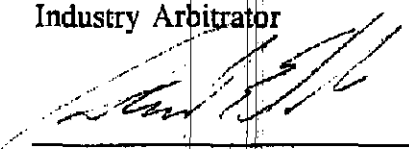
I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

\_\_\_\_\_  
David Crystal, II  
Industry Arbitrator, Presiding Chair

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Howard S. Eilen, Esq.  
Industry Arbitrator

\_\_\_\_\_  
Signature Date

  
\_\_\_\_\_  
David E. Robbins, Esq.  
Industry Arbitrator

  
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Signature Date

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June 28, 2000  
Date of Service (For NASD office use only)

**Concurring Arbitrators' Signatures**

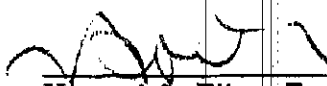
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David Crystal, II  
Industry Arbitrator, Presiding Chair

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Signature Date



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Howard S. Eilen, Esq.  
Industry Arbitrator

6.21.00

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Signature Date

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David E. Robbins, Esq.  
Industry Arbitrator

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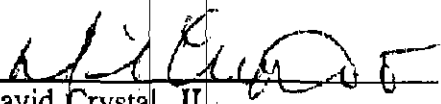
Signature Date

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June 28 2000  
Date of Service (For NASD office use only)

**Concurring Arbitrators' Signatures**

I, the undersigned arbitrator, 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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David Crystal, II  
Industry Arbitrator, Presiding Chair

6/19/2000  
\_\_\_\_\_  
Signature Date

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Howard S. Eilen, Esq.  
Industry Arbitrator

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Signature Date

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David E. Robbins, Esq.  
Industry Arbitrator

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