

**N.A.S.D. REGULATION AWARD**  
**NATIONAL ASSOCIATION OF SECURITIES DEALERS REGULATION, INC.**

CASE: 99-01578

First Institutional Securities, LLC, claimant vs. Richard Policastro, respondent.

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**ATTORNEYS:**

Claimant, First Institutional Securities, LLC ("claimant"), appeared through its General Counsel, Robert M. Axelrod, Esq., West Paterson, NJ.

Respondent, Richard Policastro ("respondent"), appeared Pro Se., Westfield, NJ.

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DATE FILED: 04/05/99

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**CASE SUMMARY:** Claimant alleged that respondent owed an outstanding balance to claimant, resulting from respondent defaulting on a written employment agreement. Claimant maintained that under the terms of this agreement respondent would receive training and respondent was to receive a draw of \$1,200.00 per month as a loan, to be paid back through respondent's production or commission credits. Claimant also alleged that upon respondent's voluntary termination claimant failed to repay the difference between what respondent actually received by way of respondent's monthly draw and the production (commission) credits allocated to respondent by claimant.

**COUNTERCLAIM CASE SUMMARY:** Respondent alleged that claimant reported for taxable year 1998 respondent's wages earned inaccurately. Respondent also maintained that as a result of the inaccurate report of earned income reflected on his 1998 W-2 respondent had to pay taxes on an earned income higher than what it should have been.

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**Claim Data**

Claim: \$5,694.00

Filing Fees: unspecified

Other: unspecified

Interest: pre-award interest dating from 10/19/98

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**Award Data**

Award: respondent shall resume agreed periodic payments of \$469.50, beginning 02/01/2000, and until he has paid a total of \$3,817.50

Filing Fees: \$.00

Other: \$.00

Interest: @ 6% on the unpaid balance from 01/02/99 to 03/30/99 (period from last payment to date of submission to NASD)

**Counterclaim Data**

Specific Performance: an amended W-2 reflecting paid wages of \$3,983.00 for 1998

Claim: \$1,939.00

**Counterclaim Award Data**

Award: Claimant shall issue an amended W-2 (or other appropriate notice) to IRS showing respondent's corrected earnings for taxable year 1998 after respondent has paid the award in full

\$ .00

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AWARD: The undersigned arbitrator has decided and determined in full and final resolution of the issues submitted for determination as follows: 1) Respondent is liable and shall pay to the claimant previously agreed periodic payments of \$469.550, beginning February 1, 2000, and until such time as he has paid a total of \$3,817.50. 2) Respondent is liable and shall pay to claimant pre-award interest at the rate of 6% on the unpaid balance, from 01/04/99 to 03/30/99. 3) All other relief requests made by claimant are denied. 4) Claimant shall issue an amended W-2 to the IRS showing respondent's corrected earnings for taxable year 1998 after respondent has paid claimant in full. 5) All other relief requests made by respondent are denied. 6) The \$750.00 filing fee previously deposited with the National Association of Securities Dealers Regulation, Inc. by the claimant, shall be retained by NASD Regulation, Inc. 7) The respondent shall pay a counterclaim filing fee of \$75.00 to the National Association of Securities Dealers Regulation, Inc., which shall be retained by NASD Regulation, Inc.

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OTHER FEES: Pursuant to Rule 10333 of the Code, claimant has paid to NASD Regulation, Inc. the \$300.00 Member Surcharge previously invoiced.

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**AFFIRMATION**

I, Arthur Ramirez, do hereby affirm, upon my oath as arbitrator that I am the individual described herein who executed this instrument, which is my oath and award.



Arthur Ramirez

January 7, 2000

Date of award