

Award
NASD Regulation, Inc.

In the Matter of the Arbitration Between:

John D. Alstadt (Claimant) vs. Everen Securities, Inc. k/n/a First Union Securities, Inc., Billy Kimbrell, Beth Stobbs, Christopher Huff, Denis P. Shinhearl, David Gilbert and Jeff White. (Respondents).

Case Number: 99-02465 Hearing Site: Dallas, Texas

REPRESENTATION OF PARTIES

Claimant, John D. Alstadt ("Claimant"): John Dees, Esq., Law Offices of John Dees, Dallas, Texas.

Respondents, Everen Securities, Inc. k/n/a First Union Securities, Inc. ("Everen"), Billy Kimbrell, Beth Stobbs, Christopher Huff, Denis P. Shinhearl, David Gilbert, and Jeff White (collectively "Respondents"): Gerald G. Pecht, Esq., Fullbright & Jaworsky, LLP., Houston, Texas.

CASE INFORMATION

Statement of Claim filed on or about: May 28, 1999. Statement of Amended Claim filed on or about: March 21, 2000.

Claimant, John D. Alstadt, signed the Uniform Submission Agreement: May 26, 1999.

Statement of Joint Answer and Counterclaim filed by all Respondents on or about: August 16, 1999. Statement of Joint Amended Answer and Counterclaim filed by all Respondents on or about: March 28, 2000.

Respondent, Everen, signed the Uniform Submission Agreement: July 19, 1999.
Respondent, Billy Kimbrell, signed the Uniform Submission Agreement: July 30, 1999.

Respondent, Beth Stobbs, signed the Uniform Submission Agreement: August 16, 1999.

Respondent, Christopher Huff, signed the Uniform Submission Agreement: August 16, 1999.

Respondent, Denis Shinhearl, signed the Uniform Submission Agreement:

August 3, 1999.

Respondent, David Gilbert, signed the Uniform Submission Agreement:: July 19, 1999.

Respondent, Jeff White, signed the Uniform Submission Agreement: August 3, 1999.

CASE SUMMARY

Claimant John D. Alstadt asserted causes of action including the following: tortious interference with contractual and business relations, conspiracy, fraud in the inducement against Respondent Everen in connection with Claimant being hired by Everen, and breach of written contract. The causes of action relate to Claimant's employment relationship with Everen Securities, Inc. k/n/a First Union Securities, Inc.

Unless specifically admitted in its Answer, all Respondents denied the allegations made in the Statement of Claim and asserted defenses including the following: Failure to state a claim upon which relief could be granted, and Claimant's claims are barred by ratification and assumption of the risk. Respondent Everen also asserted a Counterclaim for the unpaid principal on the promissory note executed by Claimant John D. Alstadt.

RELIEF REQUESTED

Claimant John D. Alstadt requested:

Compensatory Damages	\$640,000.00
Punitive Damages	unspecified
Interest	unspecified
Attorneys' Fees	unspecified
Other Costs	unspecified
Other Monetary/Non-Monetary Relief	unspecified

Respondent Everen requested:

Compensatory Damages	unspecified
Interest	unspecified
Attorneys' Fees	unspecified
Other Costs	unspecified
Other Monetary/Non-Monetary Relief	unspecified

OTHER ISSUES CONSIDERED AND DECIDED

At the in person hearing, Claimant John D. Alstadt moved to dismiss Respondent Denis P. Shinhearl. The panel granted the Motion.

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 Arbitration Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. That Claimant John D. Alstadt's requests for relief are hereby dismissed and denied in their entirety;
2. That Claimant John D. Alstadt is liable for and shall pay Respondent Everen Securities, Inc. k/n/a/ First Union Securities, Inc. \$175,166.00 (one hundred seventy five thousand one hundred sixty six dollars) in principal on the promissory note;
3. That Claimant John D. Alstadt is liable for and shall pay Respondent Everen Securities, Inc. k/n/a/ First Union Securities, Inc. \$20,875.94 (twenty thousand eight hundred seventy five dollars and ninety four cents) in interest on the promissory note;
4. That Claimant John D. Alstadt is liable for and shall pay Respondent Everen Securities, Inc. k/n/a/ First Union Securities, Inc. \$36,358.06 (thirty six thousand dollars three hundred fifty eight dollars and six cents) in attorneys' fees. In making this award of attorneys' fees the panel reviewed and considered the pleadings, documents, oral arguments, and the contracts and promissory note at issue and find that authority exists for this award of attorneys' fees;
5. That Claimant John D. Alstadt is liable for and shall pay Respondent Everen Securities, Inc. k/n/a/ First Union Securities, Inc. \$7,600.00 in costs (seven thousand six hundred dollars);
6. That any and all relief not specifically addressed herein, including punitive damages, is 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	= \$375.00
Counter 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 firms that employed the associated persons at the time of the events giving rise to the dispute. In this matter, the member firms is a party and the Respondent's former firm.

Member surcharge	= \$2000.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$3,500.0

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 arbitrators, 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 \$1,200.00	= \$2,400.00
Pre-hearing conferences: January 28, 2000	1 session
February 23, 2000	1 session
Ten (10) Hearing sessions x \$1,200.00	= \$12,000.00
Hearing Dates: May 8, 2000	2 sessions
May 9, 2000	3 sessions
May 10, 2000	2 sessions
May 11, 2000	3 sessions
Total Forum Fees	= \$14,400.00

1. The Arbitration Panel has assessed \$14,400.00 of the forum fees to Claimant, John D. Alstadt.

Fee Summary

1. Claimant, John D. Alstadt, be and hereby is solely liable for:

Initial Filing Fee	= \$ 375.00
Forum Fees	= \$14,400.00
Administrative Costs	= \$0
Total Fees	= \$14,775.00
Less payments	= \$ 2,450.00
Balance Due NASD Regulation, Inc.	= \$12,325.00

2. Respondent, Everen Securities, Inc. k/n/a/ First Union Securities, Inc. be and hereby is solely liable for:

Counterclaim Filing Fee	= \$500
Member Fees	= \$6,100.00
Forum Fees	= \$ 0
Administrative Costs	= \$ 0
Total Fees	= \$6,600.00
<u>Less payments</u>	<u>= \$7,600.00</u>
Refund due	= (\$1,000.00)

All balances are due to NASD Regulation, Inc.

Concurring Arbitrators' Signature

/s/ Maxel B. Silverberg

June 6, 2000

Maxel B. Silverberg
Public Arbitrator, Presiding Chair

Signature Date

/s/ Patricia B. Lehtola

June 13, 2000

Patricia B. Lehtola
Public Arbitrator, Public arbitrator

Signature Date

/s/ David L. Baker

June 5, 2000

David L. Baker
Public Arbitrator, Industry arbitrator

Signature Date

2. Respondent, Everen Securities, Inc. k/n/a/ First Union Securities, Inc. be and hereby is solely liable for:

Counterclaim Filing Fee	= \$500
Member Fees	= \$6,100.00
Forum Fees	= \$ 0
Administrative Costs	= \$ 0
Total Fees	= \$6,600.00
Less payments	= \$7,600.00
Refund due	= (\$1,000.00)

All balances are due to NASD Regulation, Inc.

Concurring Arbitrators' Signature


Maxel B. Silverberg
Public Arbitrator, Presiding Chair

6/6/00
Signature Date

Patricia B. Lehtola
Public Arbitrator, Public arbitrator

Signature Date

David L. Baker
Public Arbitrator, Industry arbitrator

Signature Date

2. Respondent, Everen Securities, Inc. k/n/a/ First Union Securities, Inc. be
and hereby is solely liable for:


Counterclaim Filing Fee	= \$500
Member Fees	= \$6,100.00
Forum Fees	= \$ 0
<u>Administrative Costs</u>	<u>= \$ 0</u>
Total Fees	= \$6,600.00
<u>Less payments</u>	<u>= \$7,600.00</u>
Refund due	= (\$1,000.00)

All balances are due to NASD Regulation, Inc.

Concurring Arbitrators' Signature

Maxel B. Silverberg
Public Arbitrator, Presiding Chair

Signature Date



Patricia B. Lehtola
Public Arbitrator, Public arbitrator

6.13.00

Signature Date

David L. Baker
Public Arbitrator, Industry arbitrator

Signature Date

2. Respondent, Everen Securities, Inc. k/n/a/ First Union Securities, Inc. be and hereby is solely liable for:

Counterclaim Filing Fee	= \$500
Member Fees	= \$6,100.00
Forum Fees	= \$ 0
Administrative Costs	= \$ 0
Total Fees	= \$6,600.00
Less payments	= \$7,600.00
Refund due	= (\$1,000.00)

All balances are due to NASD Regulation, Inc.

Concurring Arbitrators' Signature

Maxel B. Silverberg
Public Arbitrator, Presiding Chair

Signature Date

Patricia B. Lehtola
Public Arbitrator, Public arbitrator

Signature Date



David L. Baker
Public Arbitrator, Industry arbitrator

6-5-2000

Signature Date