

NEW YORK STOCK EXCHANGE
IN THE MATTER OF ARBITRATION BETWEEN

CASE: WILLIAM KELLY & MICHAEL NEWCOMB
vs.
DEAN WITTER REYNOLDS

DATE FILED: 10/12/88 FIRST SCHEDULED 4/27/89 DECIDED 9/28/89

*CASE SUMMARY: Registered Representatives verses Member Firm to recover incentive compensation plus attorney fees and statutory penalties amounting to 25% of the unpaid sums. Respondent counter-claims against Claimant William Kelly for sums received as incentive compensation for the year 1987.

SESSIONS: (16)

CLAIM DATA		AWARD DATA:	
643,000 (Kelly)		404,294.00	
CLAIM <u>330,000 (Newcomb)</u>	CC/3rd PTY <u>See Summary</u>	AWARD <u>196,785.00</u>	CC/3rd PTY <u>0</u>
PUNITIVE <u>-</u>	PUNITIVE <u>-</u>	PUNITIVE <u>0</u>	PUNITIVE <u>-</u>
ATTY FEES <u>YES</u>	ATTY FEES <u>-</u>	ATTY FEES <u>69,105.16</u>	ATTY FEES <u>-</u>
DEPOSIT <u>1,000.00</u>	DEPOSIT <u>-</u>	COSTS <u>16,000.00</u>	COSTS <u>-</u>

*DECISION: The undersigned arbitrators have decided and determined in full and final settlement of all claims between the parties that:

The Respondent shall pay to Claimant William Kelly \$404,294.00. The Respondent shall pay to Claimant Michael Newcomb the sum of \$196,785.00. The Respondent shall pay Claimants' attorneys' fees in the amount of \$69,105.16 which sum includes disbursements. The arbitration costs of the New York Stock Exchange in the amount of \$16,000.00 are hereby assessed

*REMARKS: (over)

ARBITRATORS D-Dissents

Michael J. Shalley, Esq.
Charles R. Pierce, Esq.
Robert D. Tacchino

Michael J. Shalley
SIGNATURE
Charles R. Pierce
SIGNATURE
Robert D. Tacchino
SIGNATURE

CITY NEW YORK STATE NEW YORK DATE: 9/28/89

*ADDITIONAL PAGES MAY BE USED IF NECESSARY.

OPINION, IF ANY, ATTACHED

*DECISION (CONT'D)

against the Respondent. The counter-claim of the Respondent against William Kelly is hereby dismissed in all respects.

Although this decision is consisted with the provision of the New York Labor Law as the arbitrators construe it, the result has been reached independently of the statutory language. The damages awarded do not include 25% in liquidated damages because the claim of willful failure to pay wages was not proven and thus there was no issue of whether or not the said New York Labor Law was applicable.

*REMARKS (CONT'D)