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December 18, 1996

Director of Arbitration  
National Association of Securities Dealers, Inc.  
33 Whitehall Street  
New York, NY 10004

Re: Ahmed Dia Hussein v. Dean Witter Reynolds, Inc.

Dear Madame:

**Claim and Demand for Arbitration**

This is a Statement of Claim in Arbitration, a Demand for Arbitration and a Notice of Intention to Arbitrate. It is a claim by Mr. Ahmed Dia Hussein ("Claimant") arising out of his employment with Dean Witter Reynolds, Inc. ("DWR"), the termination of that employment and the actions of DWR following the termination. DWR is a member organization of the Association and Claimant is a former registered representative of that firm. DWR is obligated to arbitrate the controversies set forth herein pursuant to Section 1(2) and Section 8(a)(2) of the Association's Code of Arbitration Procedure which rules require arbitration of disputes between member organizations and their employees or former employees regarding their employment or the termination thereof.

This arbitration is a public arbitration under the Rules of the Association and Claimant seeks a hearing before a mixed panel of three arbitrators in the City of New York. Enclosed are six copies of this Statement of Claim and exhibits together with a check payable to the Association to cover filing and the deposit on forum fees in the amount of \$1,000. Also enclosed is an executed and acknowledged Uniform Submission agreement and six copies thereof.

UNLESS DWR APPLIES TO A COURT OF COMPETENT JURISDICTION TO STAY THE ARBITRATION WITHIN TWENTY DAYS OF SERVICE OF A COPY OF THIS CLAIM, IT SHALL THEREAFTER BE PRECLUDED FROM OBJECTING THAT A VALID AGREEMENT TO ARBITRATE WAS NOT MADE OR HAS NOT BEEN COMPLIED WITH AND FROM ASSERTING IN COURT THE BAR OF A LIMITATION OF TIME.

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Claimant seeks damages for (i) the compensation for the balance of the fourth year of his employment, in the amount of approximately \$500,000 to \$800,000; (ii) the productivity bonus in the amount of approximately \$200,000 already earned by Claimant over the contract period from 1992 through January 9, 1996, plus the productivity bonus he would have earned had he been allowed to stay and retire at the end of 1996 or early 1997; (iii) the incentive and deferred compensation to which he would have become entitled had he not been terminated, in the amount of approximately \$70,000 had he remained employed until the end of his fourth contract year on September 9, 1996; (iv) forgiveness of the balance claimed due under the final segment of a promissory note executed by Claimant in DWR's favor at the time of his employment, amounting to approximately 2/3rds of the final \$108,958.50 after adjustment for the period worked or Claimant would have been entitled had his employment not been terminated in an amount to be ascertained at trial; (v) the stock options and other executive compensation benefits to which Claimant has not been entitled had his employment not been terminated in an amount to be determined upon the hearing of this matter; (vi) 401(k) benefits in an amount to be determined upon the hearing of this matter; (vii) a direction to file a true and accurate Form U-5 Termination Notice in the event one on Claimant's Form U-5 regarding the reasons stated for his termination; (viii) damages for defamation arising out of statements made to the industry regarding Claimant's character, including by way of any transmittal of information set forth on his proposed Form U-5 in the amount of \$1,000,000; (ix) punitive damages in the amount of \$1,000,000; and attorneys' fees and the costs of this proceeding.

Claimant's legal theories include breach of contract, wrongful termination, age discrimination in employment, termination of employment in violation of the Americans With Disabilities Act and defamation, all of which were carried out in wilful, wanton and gross disregard of the rights of Claimant and entitle him to an award of punitive damages.

### Background

Claimant is an experienced and highly successful securities broker. He has been employed as a broker since at least 1981, at all times with large New York Stock Exchange wire houses, including Prudential Bache, Oppenheimer, Smith Barney, Shearson and, finally Dean Witter. Claimant is married and is approximately 55 years of age. He was born in Egypt and educated there and in the United States. Dr. Hussein holds numerous graduate degrees from Universities both in Egypt and in the United States in multiple disciplines including scientific disciplines, mathematics, engineering and business, was a Fulbright scholar and has served as a University professor in both Egypt and the U.S.

Claimant's business as an account executive during the 17 years he has been a broker, both at DWR and at other firms, has come principally from large clients in the Middle East, Europe and other foreign countries. His business practices have historically, up to and including his employment with DWR, been marked by considerable business travel and large transactions involving significant commission income to himself and his employer. His clients are principally wealthy individuals or institutions.

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### DWR Employment and Terms

Claimant was employed by DWR from approximately September 9, 1992 until he was wrongfully terminated on January 9, 1996 as a pretext to avoid paying the compensation to which he was entitled to receive on the fourth anniversary of his employment. He has been unemployed since January 9, 1996.

Annexed hereto as Exhibit A is a copy of the DWR Account Executive Compensation, Benefits and Recognition Programs, described by DWR as a part of DWR's program entitled "Our Sacred Trust." This document sets out the formulae for the calculation of compensation for Account Executives based upon the amount of commission and other business generated by them. Page 4 of Exhibit 1 sets out the standard "payout grid" for account executives which grid increases the portion of the commissions generated by the account executive as the total gross commissions increase. In other words, the more business brought in, the higher the payout on those commissions. The term "payout" refers to the percentage of the total gross commission paid by the customer to DWR which is "paid out" to the account executive. Page 9 of the Manual sets out the "Account Executive Productivity Compensation Plan" which is also graduated and becomes higher as the account executive's production increases. These productivity bonuses are in addition to the commissions paid to the account executives under the above payout grid and are treated as "deferred compensation" paid approximately five years after they are earned. After 1999, these bonuses are to be paid in the publicly traded stock of DWR's parent company.

As Claimant was a highly desirable candidate at the time DWR hired him, DWR agreed to give him certain additional payments, perquisites and benefits. The Exhibit A Agreement was modified by an Addendum to Account Executive Compensation Agreement. This document provides for incentive compensation to Claimant over and above that provided generally to its account executives under the payout grid and productivity compensation plan. Under this agreement, Claimant was to be paid on a payout plan which exceeded the payout grid payable to other account executives. These additional payments were to be treated as "incentive compensation" and were to have been paid to Claimant in the 49th month following his employment, or during October, 1996. These sums have not been paid to date. Claimant estimates they amount to no less than \$48,000.

Annexed as Exhibit B is a copy of a Promissory Note from Claimant to DWR under which DWR advanced to Claimant 30% of his prior year's production, \$1,614,200, equal to \$484,260, after deducting 10% (payable to him under Exhibit 4 below), leaving a net advance of \$435,834. Claimant was obligated to repay this over a four year period with four payments of \$108,958.50 each due on the anniversary date. These four payments were, however, under the terms of the Exhibit 3 Note to be forgiven in annual installments of the same amount, provided that Claimant remained employed, unless his employment was terminated without cause. Claimant expressly negotiated for and obtained the agreement of DWR to the "for cause" language inserted in hand on the second page of the Note and initialled by the parties. The first three installments have been forgiven under the terms of the Note but DWR contends that the final installment of \$108,958.50

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is due to them from Claimant. In view of the unjustified firing of Claimant, this must be treated as forgiven as well. At the very least, Claimant is entitled to a *pro rata* adjustment of the final segment of the note in his favor for the portion of the 1995-1996 year during which he worked for DWR.

Annexed hereto as Exhibit C is a one paragraph letter dated September 9, 1992 which agrees to pay to Claimant the additional \$48,426 withheld under the above Promissory Note on September 9, 1996, provided that Claimant remained employed on that date. DWR's wrongful and unjustified termination of Claimant's employment has prevented him from obtaining this payment as well.

### **Termination of Employment and Pretextual Reasons**

On January 9, 1996, DWR terminated Claimant's employment. Normally, promptly following termination, DWR and any other industry employer is required to file a Form U-5 with the Central Registration Depository which provided copies to the Association, all exchanges and State regulators with which Claimant was registered or licensed. DWR, for reasons which are unexplained, has failed or neglected to do so. Instead, it has prepared a draft U-5 which it sent to Claimant's former counsel and which threatened to state as the reason for termination that "Mr. Hussein's response to an internal questionnaire did not identify a Dean Witter account containing Mr. Hussein's funds which account was carried on the firm's books and records in the name of a financial institution". Claimant believed until recently that the proposed Form U-5 had indeed been filed as DWR was obliged to do.

As the Form U-5 is necessarily read by any employer considering hiring Claimant and by any regulator considering his application for registration, such statements on this critical document accusing him of lying to his firm, concealing his interest in a customer account and, perhaps, somehow contributing to the falsification of the firm's books and records: in other words, of extremely dishonest conduct, would be extremely damaging and, indeed, devastating documents. Because of his belief that the U-5 had been filed and due to his forthright approach to business dealings and his wish not to be seen by any business associate to be concealing any information, he made disclosure of the fact that a damaging Form U-5 was filed against his record. These disclosures have cost him numerous business opportunities. Even the absence of a filed U-5 is damaging to Claimant since it clearly raises the spectre of an ongoing investigation in the minds of anyone to whose attention this failure comes and places Claimant in potential regulatory difficulties with severe possible consequences.

Statements in any Form U-5 alleging what the draft U-5 stated would be absolutely false and would be known to DWR to be absolutely false. As DWR knows, Mr. Hussein had discussed the account in question many times with his supervisors and they knew he had opened an account for that institutional customer and that he maintained an account with that institution. Nothing was concealed and was, indeed, affirmatively disclosed. Regular requests were made of Claimant by his supervisors for copies of the account statements of the institution in question. They were always promptly provided and were reviewed by management. He had even discussed the very answer to the questionnaire item with them and had sought their advice as to the proper answer given the

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circumstances. At all times, Claimant made full disclosure and had answered all questionnaire items fully and accurately, as he understood their requirements after discussing them with supervisors. Claims made at termination and thereafter of other supposed facts are fabrications made for the illegitimate purposes discussed below.

#### **Actual Reason for Termination**

Contrary to the reasons stated for termination, the real reason is the exact opposite, a reason which demonstrates both Claimant's honesty and DWR's improper motives. In late 1995, Claimant discussed with his superiors at DWR his thoughts concerning his career plans. He advised them that, as he was getting older and because of his health conditions (severe and acute bronchitis and severe sleep apnea), he would likely not continue to work for DWR for much longer after he had completed the four years in September, 1996 and that he planned to retire as a registered representative. Indeed, Claimant's physicians were advising him to retire. Shortly thereafter, despite very substantial commission production, he was terminated. Since he had substantial benefits coming to him under the various agreements annexed hereto as Exhibits 1 through 4 provided only that he survive as an employee and be allowed to retire at the end of 1996 or early 1997 or, alternatively, that his employment was terminated prior thereto **without cause**, DWR determined to terminate Claimant and to create a false "cause" for the termination. In other words, Claimant's only fault was in being too honest. He shared with his employer his ruminations regarding his future plans. They decided that they had no need to try to keep him happy any longer, they had a short term financial advantage to be gained by terminating him and that they needed a reason, a "cause" to do so.

This shoddy and immoral employment termination and grab for Mr. Hussein's well earned compensation benefits is bad enough. To go beyond that and to scar his name for the rest of his life by placing the false accusations on the Form U-5 would place this matter into the area of defamation and punitive damages.

Since January 9, 1996, Claimant has been unable to secure employment in the industry. He has been informed by at least one major client that any accusation on his proposed Form U-5 alleging dishonest conduct would prevent them from dealing with him any further. Claimant believes that, by word of mouth or otherwise, he has been damaged in his business life.

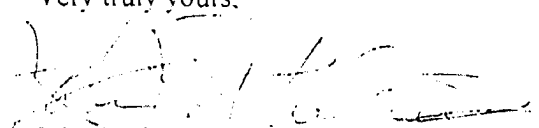
#### **Demand**

Claimant seeks damages in the amount of \$1,020,000 or such amount as is established at trial, for his lost compensation, amounts due him under the firm's 401(k) and other benefit plans, the forgiveness of any balance claimed due on his note, \$1,000,000 for the defamation claim; and a direction to DWR to file a true and accurate Form U-5 or, in the event one has not been filed, to amend his U-5 regarding the reason for termination. Claimant also seeks punitive damages in the amount of \$1,000,000 and his attorneys' fees and the costs of this proceeding.

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Claimant requests the appointment of a panel of arbitrators and the convening of hearings at the earliest possible dates.

Very truly yours,



John J. Phelan, III

cc. Edward W. Larkin, Esq.  
Dean Witter Reynolds, Inc