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NASD REGULATION, INC.  
AWARD

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In *the* Matter of the Arbitration Between

Name of Claimant  
Steven R. **Porges**

98-00639

Name of Respondent  
ANZ Securities (USA) Inc.

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**REPRESENTATION**

For Claimant:

Henry **G.** Burnett, **Esq.**  
Owen & Davis, PC  
805 Third Avenue  
New York, N.Y. 10022

For Respondent:

Gary **H.** Glaser, **Esq.**  
Winston & Strawn  
200 Park Avenue  
New York, N.Y. 10166-4193

**CASE INFORMATION**

Claimants' Statement of Claim was **filed** on February 18, 1998.  
Claimants' Submission Agreement was signed on February 13, 1998.

Respondent's Statement of Answer was filed on May 7, 1998.  
Respondent's Submission Agreement was signed on **May 6**, 1998.

**HEARING INFORMATION**

Pre-Hearing Conference(s):            September 9, 1998            (one session)

**CASE SUMMARY**

Claimant alleged that he was wrongfully terminated on November 3, 1997, from his position as President and Managing Director of ANZ Securities, after two years of employment. Claimant further alleged that he was appointed to the position for a minimum of three years.

Respondent maintained that there was no agreement to employ Claimant for a minimum of three years, that such appointment was for one year only, and that Claimant was terminated due to the poor performance of the Respondent's New York office.

### **RELIEF REQUESTED**

Claimant requested \$834,271.00 in actual damages, plus attorneys' fees, costs, and a pre-award interest of 9% per annum.

Respondent requested dismissal of Claimant's action and an award of costs and attorneys' fees.

### **OTHER ISSUES CONSIDERED & DECIDED**

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. In either case, the parties have agreed to receive conformed copies of the Award while the original remains on file with the NASD.

The parties mediated their dispute on October 16, 1998. The parties agreed to enter into a settlement agreement, which has been fully executed. Pursuant to the agreement achieved through mediation, the parties requested that the arbitration panel consider the parties' agreement to file an amended Form U-5 statement on behalf of Claimant.

The settlement agreement provides, in pertinent part:

"(b) ANZ agrees, subject to the approval and direction of the arbitration panel in the Pending Proceeding to file an amended Form U-5 as to Porges setting forth the reasons for Porges' termination by ANZ to reflect that Porges' departure from ANZ was a "voluntary resignation by mutual consent." Such amended Form U-5 shall be filed within five (5) days of the arbitration panel's approval of said statement."

### **AWARD**

After considering the pleadings, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. The parties' stipulated request for Respondent to file an amended Form U-5, on behalf of Claimant as set forth in the settlement agreement, is hereby granted.
2. The forum fees associated with this arbitration shall be equally shared by Claimant and Respondent, as set forth more fully in the "Forum Fees" section, below.

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**OTHER COSTS**

Pursuant to Rule 10333 of the Code of Arbitration Procedure, ANZ Securities shall pay to NASD Regulation, Inc. the \$2,000.00 past due member surcharge previously invoiced.

**FORUM FEES**

Pursuant to Rule 10332(c) of the NASD Regulation Code of Arbitration Procedure, the arbitrators have determined that the NASD will retain the \$500.00 non-refundable filing fee deposited by Claimant and have assessed the following Forum Fees:

1 Pre-hearing conference X	\$1,000.00	--	\$1,000.00
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The arbitrators have determined to assess the forum fees of this arbitration equally between Claimant and Respondent. Claimant has previously deposited \$1,000.00 in forum fees with the NASD. Therefore, Respondent shall reimburse Claimant the sum of \$500.00.

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SO ORDERED: Patricia Byer

SO ORDERED: January 19, 1999

SO ORDERED: \_\_\_\_\_

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SO ORDERED: Richard R. Ryder

SO ORDERED: January 19, 1999

SO ORDERED: \_\_\_\_\_