

**Stipulated Award**  
**NASD Dispute Resolution, Inc.**

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**In the Matter of the Arbitration Between:**

Daniella Pashko, (Claimant) vs. Anthony LaPenna, Alex J. Gonzalez, Jr., R.D. White & Co., Inc., Richard Dambakly and J.W. Barclay & Co., Inc., (Respondents)

Case Number: 00-00085

Hearing Site: New York, NY

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**REPRESENTATION OF PARTIES**

Claimant, Daniella Pashko, hereinafter referred to as "Claimant": Frank E. Derby, Esq., Skadden, Aarps, Slate, Meagher & Flohm LLP, New York, NY.

Respondent Alex Gonzalez, hereinafter referred to as "Gonzalez": Robert B. Weintraub, Esq., Wolf Haldenstein Adler Freeman & Hertz LLP, New York, NY.

Respondent R.D. White and Company, Inc., hereinafter referred to as "R.D. White," did not appear at the hearing in this matter. Previously represented by: Marc J. Ross, Esq., Sichenzia, Ross & Friedman LLP, New York, NY.

Respondent Anthony LaPenna, hereinafter referred to as "LaPenna": Michael Uilla, Esq., a sole practitioner, Brooklyn, New York.

Respondent J.W. Barclay, hereinafter referred to as "Barclay," did not enter an appearance in this matter.

Respondent Richard Dambakly, hereinafter referred to as "Dambakly," Leonard C. Aloï, Esq., a sole practitioner, Bronx, New York.

**CASE INFORMATION**

Statement of Claim filed on or about: January 4, 2000.

Claimant Daniella Pashko signed the Uniform Submission Agreement: January 27, 2000.

Statement of Answer filed by Respondent Gonzalez on or about: April 12, 2000.

Respondent Gonzalez signed the Uniform Submission Agreement: April 11, 2000.

Statement of Answer filed by Respondent R.D. White & Company, Inc. on or about: March 28, 2000.

R.D. White signed the Uniform Submission Agreement: April 11, 2000.

Statement of Answer filed by Respondent LaPenna on or about: March 14, 2000.  
LaPenna did not file a properly executed Uniform Submission Agreement.

Barclay did not file a Statement of Answer in this matter.  
Barclay did not file a properly executed Uniform Submission Agreement.

Statement of Answer filed by Dambakly on or about March 13, 2000.  
Dambakly did not file a properly executed Uniform Submission Agreement.

### **CASE SUMMARY**

Claimant asserted the following causes of action: excessive trading; reckless disregard of investment objectives with intent to defraud; unauthorized trading; breach of contract; misrepresentation; failure to disclose material facts; failure to supervise; and violation of federal and state securities laws and state common law.

Unless specifically admitted in its Answer, Respondent Gonzalez requested judgment in his favor dismissing in their entirety all the claims against him, and awarding him attorneys' fees, costs, forum fees, and all other relief which the Panel deems to be just and appropriate.

Unless specifically admitted in its Answer, Respondent Dambakly denied each and every allegation and demanded that the Statement of Claim be denied.

Unless specifically admitted in its Answer, Respondent Gonzalez respectfully requested judgment in his favor, dismissing in their entirety all claims against him, and awarding him attorneys' fees, costs, forum fees, and all other relief which the Panel deems to be just and appropriate.

Unless specifically admitted in its Answer, Respondent R.D. White demanded that the Statement of Claim be dismissed in its entirety.

### **RELIEF REQUESTED**

Claimants requested:

Compensatory Damages	\$ 25,000.00
Punitive Damages	\$ 50,000.00
Interest	\$ Unspecified
Attorneys' Fees	\$ Unspecified
Other Costs	\$ Unspecified

### **OTHER ISSUES CONSIDERED AND DECIDED**

Prior to a hearing on the merits, Respondents, LaPenna, Barclay and Dambakly reached settlements with the Claimant.

Respondents LaPenna, Barclay and Dambakly, did not file with NASD Dispute Resolution, Inc. a properly executed submission to arbitration but are required to submit to arbitration pursuant to the Code and LaPenna and Dambakly, having answered the claim, are bound by the determination of the Panel on all issues submitted.

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

1. Claimant and Respondent Gonzalez have entered into a settlement providing for installment payments to be made by Respondent through August 2, 2002.
2. The Panel recommends that on August 2, 2002, upon Respondent's satisfaction of the settlement agreement, the expungement of all reference to the above-captioned arbitration from the Respondent Alex Gonzalez's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent, Alex Gonzalez, must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
3. All other relief requests are hereby denied.

### **FEEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

NASD Dispute Resolution, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$ 225.00
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### **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 are a party.

Member surcharge	= \$ 1,000.00
Pre-hearing process fee	= \$ 600.00

### **Forum Fees and Assessments**

The Panel assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

Number (1) Pre-hearing session with Panel x \$ 750.00	= \$ 750.00
Pre-hearing conference: Date July 18, 2001	1 session

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Total Forum Fees	= \$ 750.00
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1. The Panel has assessed \$250.00 of the forum fees against Claimant.
2. The Panel has assessed \$250.00 of the forum fees against R.D. White.
3. The Panel has assessed \$250.00 of the forum fees against Gonzalez.

### **Fee Summary**

1. Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$ 225.00
<u>Forum Fees</u>	= \$ 250.00
Total Fees	= \$ 475.00
<u>Less payments</u>	= \$ 975.00
The NASD Dispute Resolution, Inc. shall refund	= \$ 500.00

2. Respondent R.D. White be and hereby is solely liable for:

Member Fees	= \$1,600.00
Forum Fees	= \$ 250.00
Total Fees	= \$1,850.00
<u>Less payments</u>	= \$1,000.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 850.00

3. Respondent J.W. Barclay be and hereby is solely liable for:

Member Fees	= \$1,600.00
Total Fees	= \$1,600.00
<u>Less payments</u>	<u>= \$1,600.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ .00

4. Respondent Gonzalez be and hereby is solely liable for:

<u>Forum Fee</u>	<u>= \$ 250.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 250.00

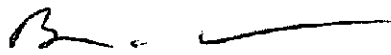
All balances are due and payable to NASD Dispute Resolution, Inc.

**ARBITRATION PANEL**

Barry Mahler, Esq.	-	Public Arbitrator, Presiding Chair
Robin Henry	-	Public Arbitrator
David Sobel, Esq.	-	Industry Arbitrator

**Concurring Arbitrators' Signature(s)**

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

  
\_\_\_\_\_  
Barry Mahler, Esq.  
Public Arbitrator, Presiding Chair

  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Robin Henry  
Public Arbitrator

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
David Sobel, Esq.  
Industry Arbitrator

\_\_\_\_\_  
Signature Date

March 5, 2002  
Date of Service (For NASD office use only)

ARBITRATION PANEL

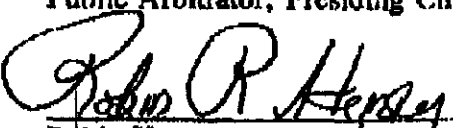
Barry Mahler, Esq.	-	Public Arbitrator, Presiding Chair
Robin Henry	-	Public Arbitrator
David Sobel, Esq.	-	Industry Arbitrator

Concurring Arbitrators' Signature(s)

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Barry Mahler, Esq.  
Public Arbitrator, Presiding Chair

\_\_\_\_\_  
Signature Date

  
Robin Henry  
Public Arbitrator

  
Jan. 18, 2002  
Signature Date

David Sobel, Esq.  
Industry Arbitrator

\_\_\_\_\_  
Signature Date

March 5, 2002  
Date of Service (For NASD office use only)

**ARBITRATION PANEL**

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Robin Henry	-	Public Arbitrator
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Barry Mahler, Esq.  
Public Arbitrator, Presiding Chair

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Signature Date

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Robin Henry  
Public Arbitrator

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Signature Date



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David Sobel, Esq.  
Industry Arbitrator

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1/31/02  
Signature Date

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March 5, 2002  
Date of Service (For NASD office use only)