

**BEFORE NASD DISPUTE RESOLUTION, INC.**

---

In the Matter of the Arbitration between:

GARY NEIDERT and JOHANNA NEIDERT

Claimants,

and

NASD Arbitration No. 00-01053  
Hearing Location: Milwaukee, Wisconsin

INSTITUTIONAL EQUITY CORPORATION  
F/K/A REDSTONE SECURITIES, INC. and  
PETER A. BOUDOUVAS

Respondents.

---

**AWARD**

---

**REPRESENTATION OF THE PARTIES**

Claimants Gary Neidert and Johanna Neidert were represented by Michael H. Schaalman, Esq., Quarles & Brady LLP, Milwaukee, Wisconsin.

Respondents Institutional Equity Corporation f/k/a Redstone Securities, Inc. and Peter A. Boudouvas were represented by Charles M. O'Rourke, Esq., Woodbury, New York, until December 28, 2000; subsequently, neither Respondent was represented at any further hearing in this matter, and neither Respondent appeared at the telephonic prehearing conference on April 15, 2001 or the hearing on July 9, 2001.

**CASE INFORMATION**

The Statement of Claim was filed on or about March 3, 2000.

Both Claimants signed a Uniform Submission Agreement on September 29, 2000.

Respondents filed a joint Answer on or about May 18, 2000.

Neither Respondent filed an executed Uniform Submission Agreement.

**CASE SUMMARY**

Claimants alleged that on and between June 22, 1998 and July 11, 1998 Respondent Boudouvas effected five unauthorized purchases of securities in their account with Respondent Redstone Securities, Inc. subsequently known as Institutional Equity Corporation. Claimants alleged this conduct violated the NASD Rules of Conduct and the Wisconsin Uniform Securities Law.

Respondents denied the allegations of the Statement of Claim and alleged various affirmative defenses including waiver, estoppel and ratification; assumption of risk; contributory negligence; and the lack of a private right of action for alleged violations of NASD Rules of conduct.

### **RELIEF REQUESTED**

Claimants requested an award against Respondents for compensatory damages in the amount of \$163,802.29 plus interest and attorney's fees.

In the Answer, Respondents requested that the claims be dismissed in their entirety and respondents be awarded all expenses associated with defending the claim, including reasonable attorneys' fees, expert witness fees, travel costs and forum fees.

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

Respondents Institutional Equity Corporation, f/k/a Redstone Securities, Inc. and Peter A. Boudouvas did not file executed submission agreements, but they filed a joint answer and both are required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure.

Upon review of the file and the representations made on behalf of the Claimants, the undersigned arbitrators determined that Respondents Institutional Equity Corporation f/k/a Redstone Securities, Inc. and Peter A. Boudouvas have been properly served with the Statement of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without either Respondent being present in accordance with the NASD Code of Arbitration Procedure.

This award may be executed in counterpart copies with conformed copies provided to the parties while the originals remain on file with NASD Dispute Resolution, Inc.

### **AWARD**

Although provided due notice of the pre-hearing conference held on April 13, 2001 and the hearing held on July 9, 2001, neither Respondent appeared or participated in those proceedings. At the pre-hearing conference on April 13, 2001, the Panel granted Claimant's request to present their case in the form of an offer of proof by their attorney in the event of a default. Accordingly, at the hearing the Panel considered the pleadings, the oral offer of proof presented by Claimants' counsel and the documentary evidence submitted as exhibits. Upon due consideration, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents Institutional Equity Corporation f/k/a Redstone Securities, Inc. and Peter A. Boudouvas are jointly and severally liable for, and shall pay to Claimants Gary Neidert and Johanna Neidert, the sum of \$169,802.29 as and for compensatory damages.
2. In addition, Respondents Institutional Equity Corporation f/k/a Redstone Securities, Inc. and Peter A. Boudouvas are jointly and severally liable for, and shall pay to Claimants Gary Neidert and Johanna Neidert, interest determined pursuant to Wis. Stats. § 551.59(1)(a) at the rate of 5% per annum and calculated as follows:
  - a. At the rate of \$15.22 per day from October 22, 1998 until paid;

- b. At the rate of \$2.82 per day from October 24, 1998 until paid;
  - c. At the rate of \$4.39 per day from October 22, 1998 until paid;
- 3. The claim for attorney's fees was withdrawn at the hearing and therefore is denied.
  - 4. Any relief not specifically awarded is hereby denied.

### **FEES**

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 = \$ 300.00

#### **Member Fees**

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person at the time of the events giving rise to the dispute. In this matter, the member firm is a party.

Member surcharge = \$ 1,500.00  
 Pre-hearing process fee = \$ 600.00  
 Hearing process fee = \$ 2,500.00

#### **Forum Fees and Assessments**

The panel has the authority to assess 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 \$1,125.00 = \$ 2,250.00  
 Pre-hearing conferences:      October 4, 2000      1 session  
    April 13, 2001      1 session

One (1) Hearing sessions x \$1,125.00 = \$ 1,125.00  
 Hearing Date:      July 9, 2001      1 session

---

Total Forum Fees = \$ 3,375.00

The panel has assessed \$1,687.50 of the forum fees, jointly and severally, to Claimants Gary Neidert and Johanna Neidert. In addition, the panel has assessed \$1,687.50 of the forum fees, jointly and severally, to Respondents Institutional Equity Corporation f/k/a Redstone Securities, Inc. and Peter A. Boudouvas.

### **FEES SUMMARY**

Claimants Gary Neidert and Johanna Neidert are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 1,687.50
Total Fees	= \$ 1,987.50

<u>Less payments</u>	= \$ 1,425.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 562.50

Respondent Institutional Equity Corporation f/k/a Redstone Securities, Inc. is solely liable for:

Member Fees	= \$ 4,600.00
<u>Less payments</u>	= \$ 0
Balance Due NASD Dispute Resolution, Inc.	= \$ 4,600.00

Respondents Institutional Equity Corporation f/k/a Redstone Securities, Inc. and Peter A. Boudouvas are jointly and severally liable for:

Forum Fees	= \$ 1,687.50
<u>Less payments</u>	= \$ 0
Balance Due NASD Dispute Resolution, Inc.	= \$ 1,687.50

All balances are due to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

David J. Hase, Esq. - Public Arbitrator, Presiding Chair  
Thomas F. Mahoney, Esq. - Public Arbitrator  
Sanford J. Prizant - Non-Public Arbitrator

Concurring Arbitrators' Signatures

David J. Hase  
David J. Hase, Esq.  
Public Arbitrator, Chairperson

Date: August 17, 2001

\_\_\_\_\_  
Thomas F. Mahoney, Esq.  
Public Arbitrator

Date: \_\_\_\_\_, 2001.

\_\_\_\_\_  
Sanford J. Prizant  
Industry Arbitrator

Date: \_\_\_\_\_, 2001

August 21, 2001  
Date of Service (for NASD-DR office use only)

<u>Less payments</u>	= \$ 1,425.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 562.50

Respondent Institutional Equity Corporation f/k/a Redstone Securities, Inc. is solely liable for:

Member Fees	= \$ 4,600.00
<u>Less payments</u>	= \$ 0
Balance Due NASD Dispute Resolution, Inc.	= \$ 4,600.00

Respondents Institutional Equity Corporation f/k/a Redstone Securities, Inc. and Peter A. Boudouvas are jointly and severally liable for:

Forum Fees	= \$ 1,687.50
<u>Less payments</u>	= \$ 0
Balance Due NASD Dispute Resolution, Inc.	= \$ 1,687.50

All balances are due to NASD Dispute Resolution, Inc.

#### ARBITRATION PANEL

David J. Hase, Esq. - Public Arbitrator, Presiding Chair  
Thomas F. Mahoney, Esq. - Public Arbitrator  
Sanford J. Prizant - Non-Public Arbitrator

#### Concurring Arbitrators' Signatures

\_\_\_\_\_  
David J. Hase, Esq.  
Public Arbitrator, Chairperson

Date: \_\_\_\_\_, 2001

Thomas F. Mahoney  
Thomas F. Mahoney, Esq.  
Public Arbitrator

Date: 17 AUGUST, 2001.

\_\_\_\_\_  
Sanford J. Prizant  
Industry Arbitrator

Date: \_\_\_\_\_, 2001

August 21, 2001  
Date of Service (for NASD-DR office use only)

Less payments = \$ 1,425.00  
Balance Due NASD Dispute Resolution, Inc. = \$ 562.50

Respondent Institutional Equity Corporation f/k/a Redstone Securities, Inc. is solely liable for:

Member Fees = \$ 4,600.00  
Less payments = \$ 0  
Balance Due NASD Dispute Resolution, Inc. = \$ 4,600.00

Respondents Institutional Equity Corporation f/k/a Redstone Securities, Inc. and Peter A. Boudouvas are jointly and severally liable for:

Forum Fees = \$ 1,687.50  
Less payments = \$ 0  
Balance Due NASD Dispute Resolution, Inc. = \$ 1,687.50

All balances are due to NASD Dispute Resolution, Inc.

**ARBITRATION PANEL**

David J. Hase, Esq. - Public Arbitrator, Presiding Chair  
Thomas F. Mahoney, Esq. - Public Arbitrator  
Sanford J. Prizant - Non-Public Arbitrator

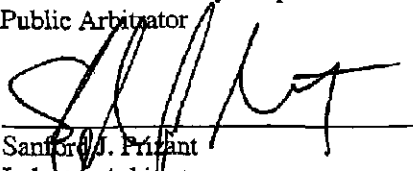
**Concurring Arbitrators' Signatures**

\_\_\_\_\_  
David J. Hase, Esq.  
Public Arbitrator, Chairperson

Date: \_\_\_\_\_, 2001

\_\_\_\_\_  
Thomas F. Mahoney, Esq.  
Public Arbitrator

Date: \_\_\_\_\_, 2001.

  
\_\_\_\_\_  
Sanford J. Prizant  
Industry Arbitrator

Date: 8/17, 2001

August 21, 2001  
Date of Service (for NASD-DR office use only)