

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

H. George Lundberg and Angelika M. Lundberg; Angelika M. Lundberg and H. George Lundberg JTEN/WROS; HGL Consulting/Research LTD, H. George Lundberg President; Lola D. Thomas Trust, H. George Lundberg Trustee and H. George Lundberg and Lola D. Thomas, JTEN, Claimants v. PaineWebber, Inc. and David Yukio Omura, Respondent.

Case Number: 00-01074

Hearing Site: Honolulu, HI

REPRESENTATION OF PARTIES

For Claimants:

Carl H. Osaki, Esq.
Law Offices of Carl H. Osaki
Davies Pacific Center
841 Bishop Street, Suite 924
Honolulu, HI 96813

For Respondent:

Greg Copeland, Esq.
PaineWebber, Inc.
725 South Figueroa Street
Los Angeles, CA 90017

CASE INFORMATION

Statement of Claim filed: March 13, 2000

Claimants' Uniform Submission Agreement signed: March 2, 2000

Statement of Answer filed by Respondents: May 17, 2000

Respondent PaineWebber's Uniform Submission Agreement signed: May 15, 2000

Respondent David Yukio Omura's Uniform Submission Agreement signed: May 17, 2000

Amended Statement of Claim filed: November 17, 2000

Statement of Answer to the Amended Statement of Claim filed: December 29, 2000

CASE SUMMARY

Claimants alleged in their Statement of Claim and Amended Statement of Claim: Suitability of recommendations as to Tricon Global, Disney, Corel and VISX, Inc. ("VISX") stock and municipal bonds; defamation; failure to disclose; failure to execute trades for CREE Research ("CREE") and RF Micro Devices ("RFMD") stock; lost opportunity; limit order violations as to Pepsi and VISX stock; manipulation, control and domination; breach of verbal contract; breach of covenant of good faith and fair dealing; harassment, bias, conspiracy to discriminate on the part of PaineWebber; and violation of the RICO statute.

Respondent denied the allegations of wrongdoing set forth in the Claimants' Statement of Claim and Amended Statement of Claim.

RELIEF REQUESTED

Claimants requested \$664,447 (actual damages), \$1,993,341 (punitive damages/treble damages), \$1575 (forum fees), \$50,000 (case preparation), interest (10% annually from November 12, 1999) and specific performance.

Respondents requested dismissal of the Claimants' Statement of Claim/Amended Statement of Claim in their entirety. Respondents further requested that Claimants take nothing by way of their claims, that an award of all reasonable costs of suit incurred be given to Respondents, that all reference to this action be expunged from the CRD records of Respondent David Yukio Omura and from the publicly available records of Respondent PaineWebber, and for such other relief as the Panel deemed just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

The parties agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

At the arbitration hearing, the parties jointly moved for the dismissal of Respondent Mr. David Yukio Omura and requested expungement of his CRD records.

AWARD

After considering the pleadings, testimony, and evidence presented at the hearing, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) All claims are denied, except the Panel finds Claimants entered an order on October 22, 1999 for 2000 shares of CREE and 1000 shares of RFMD at the market price. The Panel further finds from the evidence a reasonable sale date to be November 15, 1999. Based on the

closing price on those dates, less a reasonable commission, the Panel finds for Claimants in the sum of \$72,010.

- 2) The Panel recommends that Respondent David Yukio Omura not be required to or asked to financially participate, internally, or in any manner in the payment of the Award.
- 3) The Panel notes that it finds no evidence of racial or ethnic bias or prejudice on the part of Respondent PaineWebber.
- 4) The Panel grants the joint Motion to Dismiss Respondent David Yukio Omura. Accordingly, the Panel recommends the expungement of all reference to the above captioned arbitration from Respondent David Yukio Omura's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent David Yukio Omura must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 5) Each party shall bear its own costs, including attorney's fees.
- 6) All other relief not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee	= \$ 375
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Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events which gave rise to the dispute, claim, or controversy. Accordingly, the member firm PaineWebber is a party and the following fees are assessed:

Member Surcharge	= \$2000
Pre-Hearing Process Fee	= \$ 600
<u>Hearing Process Fee</u>	= \$ 3500
Total Member Fees	= \$ 6100

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair/Panel. The following fees are assessed:

Four (4) Pre-hearing conference sessions with the Panel @ \$1200/session = \$4800

Pre-hearing conference:	November 9, 2000	1 session
	December 6, 2000	1 session
	March 13, 2001	1 session
	March 27, 2001	1 session

Eight (8) Hearing sessions @ \$1200/session = \$ 9600

Hearing:	May 14, 2001	2 sessions
	May 15, 2001	3 sessions
	May 16, 2001	2 sessions
	May 17, 2001	1 session

Total Forum Fees = \$ 14,400

1. The Panel assessed \$7200 of the forum fees jointly and severally to the Claimants.
2. The Panel assessed \$7200 of the forum fees to Respondent PaineWebber.

Fee Summary

1. Claimants are charged jointly and severally with the following fees and costs:

Initial Filing Fee	= \$ 375
<u>Forum Fees</u>	<u>= \$ 7200</u>
Total Fees	= \$ 7575
<u>Less Payments</u>	<u>= \$(1575)</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 6000

3. Respondent, PaineWebber, is charged with the following fees and costs:

Member Fees	= \$ 6100
<u>Forum Fees</u>	<u>= \$ 7200</u>
Total Fees	= \$ 13,300
<u>Less Payments</u>	<u>= \$ (6100)</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 7200

All balances are payable to NASD Dispute Resolution, Inc. and are payable upon the receipt of the Award pursuant to Rule 10330(g) of the Code.

NASD Dispute Resolution, Inc.
Arbitration No. 00-01074
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ARBITRATION PANEL

Tobin B. Swanson, Esq.	-	Public/Non-Public, Presiding Chair
Harriette L. Holt, Esq.	-	Public/Non-Public Arbitrator
John D. Ellis	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Tobin B. Swanson, Esq.
Chair, Public Arbitrator

Signature Date

Harriette L. Holt
Harriette L. Holt, Esq.
Public Arbitrator

June 14, 2001
Signature Date

John D. Ellis
Industry/Non-Public Arbitrator

Signature Date

Date Served:

JUN 21 2001

Date of Service

COUNTY OF MAUI

Windsor Hill
CANDRA H. CRO

L.G

INDIVIDUAL ACKNOWLEDGEMENT

STATE OF HAWAII)
County of _____) SR.

On this _____ day of _____, _____, before me personally appeared _____
to me known to be the person (s) described in and who executed the foregoing instrument, and acknowledged
that _____ executed the same as _____, free act and deed.

Notary Public, _____ Judicial Circuit, State of Hawaii

My commission expires

NASD Dispute Resolution, Inc.
Arbitration No. 00-01074
Award Page 5 of 5

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Tobin B. Swanson, Esq.	-	Public/Non-Public, Presiding Chair
Harriette L. Holt, Esq.	-	Public/Non-Public Arbitrator
John D. Ellis	-	Non-Public Arbitrator


Concurring Arbitrators' Signatures

Tobin B. Swanson, Esq.
Chair, Public Arbitrator

Signature Date

Harriette L. Holt, Esq.
Public Arbitrator

Signature Date



John D. Ellis
Industry/Non-Public Arbitrator

18 June 01
Signature Date

Date Served:

JUN 21 2001

14-17 May 01
Date of Service

STATE OF HAWAII ss.:

CITY & COUNTY OF HONOLULU

On this 18th day of JUNE, 2001, before me personally appeared JOHN D. ELLIS to me known and known before me to be the individual described in and who executed the foregoing instrument and s/he duly acknowledged to me that s/he executed the same.

STATE OF HAWAII
City & County of HONOLULU) ss.

INDIVIDUAL ACKNOWLEDGEMENT

On this 18th day of JUNE, 2001, before me personally appeared JOHN D. ELLIS
to me known to be the person (s) described in and who executed the foregoing instrument, and acknowledged that he executed the same as his, free and deed.

K. U. OYAMA
Notary Public, 1st KIMI OYAMA Judicial Circuit, State of Hawaii

My commission expires AUGUST 26, 2002