

**Stipulated Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Name of the Claimant

Paul Z. Brochstein

Case Number: 00-03498

Name of the Respondent

PaineWebber, Inc., David A. Solomon and  
Andrew B. Linbeck

Hearing Site: Houston, Texas

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**REPRESENTATION OF PARTIES**

Claimant, Paul Z. Brochstein, hereinafter referred to as "Claimant": William Shepherd, Esq., of Shepherd, Smith & Bebel, Houston Texas.

Respondents, PaineWebber, Inc., ("PaineWebber") David L. Solomon ("Solomon") and Andrew B. Linbeck, ("Linbeck") hereinafter collectively referred to as "Respondents": William Mac Montgomery Esq., of PianeWebber, Inc., Los Angeles, California.

**CASE INFORMATION**

Statement of Claim filed: August 18, 2000.

Claimant did file an executed Uniform Submission Agreement:

Joint Statement of Answer filed by Respondents on or about: December 6, 2000.

Respondent PaineWebber signed the Uniform Submission Agreement: October 30, 2000.

Respondent Linbeck signed a Uniform Submission Agreement: December 29, 2000.

Respondent Solomon signed a Uniform Submission Agreement on January 3, 2001.

**CASE SUMMARY**

Claimants asserted the following causes of action: breach of contract, breach of fiduciary duty; misrepresentation; suitability; negligence; and, violations of state and federal securities laws. These causes of action relate to the sale of common stock.

Unless specifically admitted in its Answer, Respondents denied the allegations made in the Statement of Claim.

**RELIEF REQUESTED**

Claimants requested:

Compensatory Damages	\$ 500,000.00
Punitive Damages	\$ Unspecified
Interest	\$ Unspecified
Attorneys' Fees	\$ Unspecified
Other Costs	\$ Unspecified

Respondent requested dismissal of all claims with prejudice.

**OTHER ISSUES CONSIDERED AND DECIDED**

Claimant Paul Z. Brochstein did not file with NASD Dispute Resolution, a properly executed submission to arbitration but having and filed a claim in arbitration is bound by the determination of the Panel on all issues submitted.

On or about July 11, 2001 the parties filed a Motion for an agreed stipulated award. Pursuant to the joint motion of the parties the Panel has recommended the expungement of all references to the above captioned arbitration from Respondent David A. Solomon's and Andrew B. Linbeck's registration records maintained by the NASD Central Registration Depository ("CRD")

**AWARD**

After considering the pleadings and stipulation received from the parties, the Panel orders as follows:

1. The claims filed against Respondents PaineWebber, Inc., David A. Solomon, and Andrew B. Linbeck shall be dismissed in their entirety with prejudice;
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent David Solomon's, and Andrew B. Linbeck's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondents David A. Solomon and Andrew B. Linbeck must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
3. Unless specifically enumerated herein, all costs shall be borne by the parties who incurred them; and,

4. Any and all relief not specifically addressed herein, is denied.

**FEES**

Pursuant to the Code, the following fees are assessed:

**Filing Fees**

NASD Dispute Resolution 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. Accordingly, PaineWebber is a Respondent firm.

Member surcharge = \$ 1,500.00

Pre-hearing process fee = \$ 600.00

Hearing process fee = \$ 2,500.00

**Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

June 19, 2001-June 22, 2002 by Respondent David Solomon \$1,125.00

**Forum Fees and Assessments**

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

One (1) Pre-hearing session with a single arbitrator @ \$1,125.00 = \$ 1,125.00

Pre-hearing conference: January 18, 2001 1 session

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Total Forum Fees = \$ 1,125.00

1. The Panel has assessed \$562.50 of the forum fees to Claimant Brochstein.

2. The Panel has assessed \$562.50 of the forum fees to Respondents PaineWebber, Lindbeck and Solomon jointly and severally

**Fee Summary**

Claimant Brochstein is solely liable for:

Initial Filing Fee = \$ 300.00

Forum Fees = \$ 562.50

Total Fees = \$ 862.50

Less payments = \$ 1,425.00

Balance refunded by NASD Dispute Resolution = \$ 562.50

Respondent PaineWebber is solely liable for:

Member Fees	= \$ 4,600.00
Less payments	= \$ 4,600.00
Balance Due NASD Dispute Resolution	= \$ 00

Respondents, PaineWebber, Linbeck and Solomon are jointly and severally liable for:

Forum Fees	= \$ 562.50
Less payments	= \$ 562.50
Balance Due NASD Dispute Resolution	= \$ 00

Respondent Solomon is solely liable for

Adjournment fee	= \$ 1,125.00
Less Payment	= \$ 1,125.00
Balance Due	.00

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

**ARBITRATION PANEL**

George A. Sellnau Esq.- Public Arbitrator, Presiding Chairperson  
Donald E. Fisher, Jr., Esq. - Public Arbitrator  
Robert E. Otto - Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

\_\_\_\_\_  
George A. Sellnau, Esq.  
Public Arbitrator, Presiding Chairperson

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

\_\_\_\_\_  
Donald E. Fisher Jr., Esq.  
Public Arbitrator

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

\_\_\_\_\_  
Robert E. Otto  
Non-Public Arbitrator

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

\_\_\_\_\_  
Date of Service (For NASD Dispute Resolution office use only)

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NASD REGULATION

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NASD Dispute Resolution  
Arbitration No. # 00-03498  
Award Page 4

Respondent PaineWebber is solely liable for:

Member Fees	= \$ 4,600.00
Less payments	= \$ 4,600.00
Balance Due NASD Dispute Resolution	= \$ 00

Respondents, PaineWebber, Linbeck and Solomon are jointly and severally liable for:

Forum Fees	= \$ 562.50
Less payments	= \$ 00
Balance Due NASD Dispute Resolution	= \$ 562.50

Respondent Solomon is solely liable for

Adjournment fee	= \$ 1,125.00
Less Payment	= \$ 1,125.00
Balance Due	00

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Robert E. Otto - Non-Public Arbitrator

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George A. Sellnau  
George A. Sellnau, Esq.  
Public Arbitrator, Presiding Chairperson

13 Feb 2003  
Signature Date

Donald E. Fisher Jr., Esq.  
Donald E. Fisher Jr., Esq.  
Public Arbitrator

Signature Date

Robert E. Otto  
Robert E. Otto  
Non-Public Arbitrator

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NASD Dispute Resolution  
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Signature Date

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Respondents. PainWebber, Linbeck and Solomon are jointly and severally liable for:

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Less payments	= \$ 00
Balance Due NASD Dispute Resolution	= \$ 562.50

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Donald E. Fisher, Jr., Esq. - Public Arbitrator

Robert E. Otto - Non-Public Arbitrator

Concurring Arbitrators' Signatures

George A. Sellnau, Esq.  
Public Arbitrator, Presiding Chairperson

Signature Date

  
Donald E. Fisher Jr., Esq.  
Public Arbitrator

Signature Date

2/12/03

Robert E. Otto  
Non-Public Arbitrator

Signature Date

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