

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

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In the Matter of the Arbitration Between:

John W. Jump, Claimant v. Sharpe Capital, Inc. and Brian R. Brush, Respondents

Case Number: 00-03951

Hearing Site: Los Angeles, California

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Nature of the Dispute: Customer v. Member and Associated Person

**REPRESENTATION OF PARTIES**

For Claimant:

John W. Jump  
In Propria Persona  
Ventura, California

For Respondent Sharpe Capital, Inc.:

Yuet Wong, Esq.  
Sharpe Capital, Inc.  
New York, New York

For Respondent Brian R. Brush:

Louis F. Brush, Esq.  
Attorney at Law  
Mineola, New York

**CASE INFORMATION**

Statement of Claim filed: September 8, 2000

Claimant's Uniform Submission Agreement signed: July 18, 2000

Statement of Answer filed by Respondent Sharpe Capital, Inc.: December 22, 2000

Statement of Answer filed by Respondent Brian R. Brush: January 9, 2001

Respondent Sharpe Capital Inc.'s Uniform Submission Agreement signed: December 21, 2000

Respondent Brian R. Brush's Uniform Submission Agreement signed: Not Filed

### **CASE SUMMARY**

Claimant alleged unsuitability, unauthorized trading, and margin calls involving transactions in shares of FreeShop.com, Inc., Intuit, Cybergold, Inc., Jetform Corporation, and Brandera.com, Inc. stocks.

Respondents denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim and asserted various affirmative defenses.

### **RELIEF REQUESTED**

Claimant requested \$47,187.50 in compensatory damages.

Respondents requested dismissal of the Claimant's Statement of Claim in its entirety and costs, including attorney's fees.

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

Respondent Brian R. Brush did not file with NASD Dispute Resolution a properly executed submission agreement but is required to submit to arbitration pursuant to the Code and having answered the claim is bound by the determination of the Arbitrator on all issues submitted.

### **AWARD**

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

- 1) Pursuant to Rule 10305(a) of NASD Code of Arbitration Procedure, this proceeding is dismissed and the parties are referred to their judicial remedies, or to any dispute resolution forum agreed to by the parties, without prejudice to any claims or defenses available to any party. This case was filed more than four years ago and Claimant has failed to comply with repeated requests to prosecute or dismiss the matter. For this reason, the Arbitrator, upon her own initiative, elected to dismiss and close out this matter.
- 2) The Parties shall bear their respective costs, including attorney's fees.
- 3) All other relief requested and not expressly granted is denied.

### **FEES**

Pursuant to the Code of Arbitration Procedure ("Code"), the following fees are assessed:

#### **Filing Fees**

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

Initial claim filing fee	= \$ 175.00
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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 that gave rise to the dispute, claim, or controversy. Accordingly, the member firm Sharpe Capital, Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 800.00
Pre-Hearing Process Fee	= \$ 600.00
<b>Total Member Fees</b>	<b>= \$ 1,400.00</b>

#### **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 or the parties and the Panel. The following fees are assessed:

Two (2) Pre-hearing conference sessions with a single arbitrator @ \$450.00/session	= \$ 900.00
Pre-hearing conferences:      October 15, 2001      1 session	
November 15, 2001      1 session	

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<b>Total Forum Fees</b>	<b>= \$ 900.00</b>
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1. The Panel assessed \$450.00 of the forum fees to Claimant John W. Jump.
2. The Panel assessed \$450.00 of the forum fees jointly and severally to Respondents Sharpe Capital, Inc. and Brian R. Brush.

**Fee Summary**

1. Claimant John W. Jump is charged with the following fees and costs:

Initial Filing Fee	= \$ 175.00
<u>Forum Fees</u>	= \$ 450.00
Total Fees	= \$ 625.00
<u>Less payments</u>	= \$ (625.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 0.00</b>
  
2. Respondent Sharpe Capital, Inc. is charged with the following fees and costs:

Member Fees	= \$ 1,400.00
<u>Less payments</u>	= \$ (0.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 1,400.00</b>
  
3. Respondents Sharpe Capital, Inc. and Brian R. Brush are charged jointly and severally with the following fees and costs:

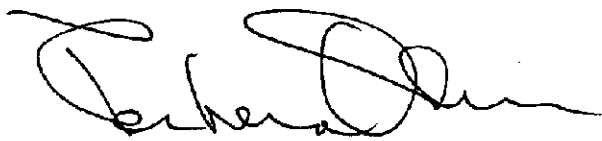
Forum Fees	= \$ 450.00
<u>Less payments</u>	= \$ (0.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 450.00</b>

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

**ARBITRATOR**

**Barbara L. Olsen, Esq.**

**Arbitrator's Signature**



**Barbara L. Olsen, Esq.**  
Public Arbitrator

1/15/05

Signature Date

1/18/05

Date of Service