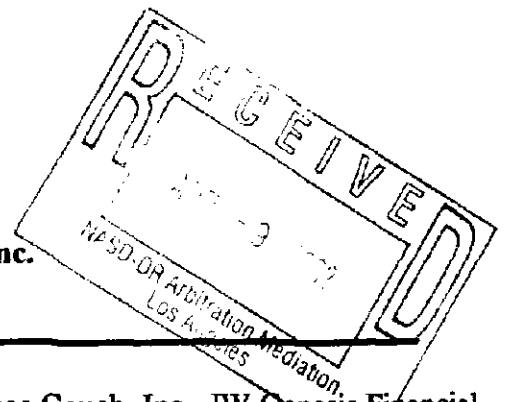


Award
NASD Dispute Resolution, Inc.



In the Matter of the Arbitration Between:

Loren G. Yamamoto, Claimant v. Couch & Co., Inc. f/k/a Thomas Couch, Inc., JW Genesis Financial Services, Inc., Anthony Frank Giordano, Thomas McDonald Couch, Jr., and Couch & Company.Com Holding Company, Inc., Respondents

Case Number: 00-04691

Hearing Site: Honolulu, Hawaii

REPRESENTATION OF PARTIES

For Claimant:

**Lorrin A. Kau, Esq.
Law Office of Lorrin A. Kau
Honolulu, Hawaii**

**For Respondents Couch & Co., Inc. f/k/a Thomas Couch, Inc.,
and Couch & Company.Com Holding Company, Inc.:**

**Thomas McDonald Couch, Jr.
Couch & Co., Inc.
Houston, Texas**

For Respondent JW Genesis Financial Services, Inc.:

**Alan E. Greenberg, Esq.
Lewis, D'Amato, Brisbois &
Bisgaard, LLP
San Diego, California**

For Respondent Anthony Frank Giordano:

**Anthony Frank Giordano
In Pro Per
Deerfield Beach, Florida**

For Respondent Thomas McDonald Couch, Jr.:

**Thomas McDonald Couch, Jr.
In Pro Per
Houston, Texas**

CASE INFORMATION

Statement of Claim filed: October 20, 2000

Amended Statement of Claim filed: August 21, 2001

Claimant's Opposition to Respondent Thomas McDonald Couch, Jr.'s Motion to Dismiss filed:
January 11, 2002

Claimant's Uniform Submission Agreement signed: October 17, 2000

Statement of Answer to Statement of Claim filed by Respondent Couch & Co., Inc. f/k/a Thomas Couch, Inc.: December 18, 2000

Statement of Answer and Motion to Dismiss Statement of Claim filed by Respondent JW Genesis Financial Services, Inc.: January 5, 2001

Respondent JW Genesis Financial Services, Inc.'s Uniform Submission Agreement filed: January 5, 2001

Statement of Answer to Amended Statement of Claim filed by Respondent Thomas McDonald Couch, Jr.: September 24, 2001

Motion to Dismiss Amended Statement of Claim filed by Respondent Thomas McDonald Couch, Jr.: January 4, 2002

CASE SUMMARY

In the Amended Statement of Claim, Claimant alleged misrepresentation, omissions, failure to supervise, fraud, breach of fiduciary duty, and negligence.

Claimant's allegations arise out of certain transactions between February and May 2000 in an account Claimant maintained with Respondent Couch & Co., Inc. f/k/a Thomas M. Couch, Inc. Claimant alleged that Respondent Anthony Frank Giordano was not licensed as a securities salesperson, broker or dealer; that Respondent Anthony Frank Giordano made unauthorized trades for Claimant's account; that Respondent Anthony Frank Giordano knowingly made false statements to Claimant with respect to certain trades in his account; that Respondent Anthony Frank Giordano omitted to state material facts to Claimant that were necessary to avoid misleading him; that Claimant relied to his detriment on such false and misleading statements; that Respondent Thomas McDonald Couch, Jr. controlled, supervised and actively participated and assisted in the wrongful actions of Respondent Anthony Frank Giordano; and that all Respondents violated various provisions of Hawaii Revised Statute Chapters 485 and 480, as specifically set forth in Claimant's Amended Statement of Claim.

Respondents Couch & Co., Inc. f/k/a Thomas Couch, Inc., JW Genesis Financial Services, Inc., and Thomas McDonald Couch, Jr. denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim.

Respondents Anthony Frank Giordano and Couch & Company.Com Holding Company, Inc. did not file a Statement of Answer.

RELIEF REQUESTED

In the Amended Statement of Claim, pursuant to Hawaii Revised Statute §485-20(a), for each and every sale obtained or made in violation of Hawaii Revised Statute §§485-14 or 485-25 that is voidable at the election of Claimant, Claimant requests not less than the amounts which were paid and/or the value for those securities on the date of transfer plus statutory interest of 10% per annum as allowed by Hawaii Revised Statute §485-20 as follows: \$7,594.50 for Oasis Resorts International, Inc., \$31,621.00 for Juniper Group, Inc., \$84,375.00 for Sunrise Technologies, Inc., \$49,090.00 for Motorsports USA, Inc., and \$195,842.50 for Texlon Corporation.

Claimant also requested pecuniary damages of not less than \$98,859.00, relief allowed by 15 U.S.C. §771, treble of pecuniary damages pursuant to Hawaii Revised Statute §480-13(b) of not less than \$296,577.00, the greater of treble damages awarded pursuant to Hawaii Revised Statutes §480-13(b) or punitive damages of not less than \$300,000.00, general and other damages as may be proven at hearing, declaration that those contracts which were obtained or entered in violation of Hawaii Revised Statute §480-2 as being void pursuant to Hawaii Revised Statutes §480-12, arbitration costs and attorney's fees pursuant to Hawaii Revised Statute §§480-13(b), 485-20, and by laws and rules of the NASD, and for findings of unfair and deceptive acts and practices that violate Hawaii Revised Statutes §480-2, so that a Court of appropriate jurisdiction may enter appropriate orders enjoining Respondents.

Respondents Couch & Co., Inc. f/k/a Thomas Couch, Inc., JW Genesis Financial Services, Inc., and Thomas McDonald Couch, Jr. requested dismissal of the Claimant's Statement of Claim in its entirety. Respondent JW Genesis Financial Services, Inc. also sought attorney's fees and arbitration costs.

OTHER ISSUES CONSIDERED AND DECIDED

On May 15, 2002, Claimant verbally notified the panel he settled with Respondent JW Genesis Financial Services, Inc. On June 4, 2001, NASD Dispute Resolution, Inc. received written notice that Claimant settled with Respondent JW Genesis Financial Services, Inc.

On January 15, 2002, the Panel denied Respondent Thomas McDonald Couch, Jr.'s Motion to Dismiss which alleged there was insufficient evidence that Thomas McDonald Couch, Jr. personally controlled or supervised Anthony Frank Giordano.

Upon review of the file and the representations made on behalf of the Claimant, the undersigned Panel determined that Respondents Couch & Co., Inc. f/k/a Thomas Couch, Inc. and Thomas McDonald Couch, Jr. were properly served with the Statement of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without said Respondents present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

Respondents Couch & Co., Inc. f/k/a Thomas Couch, Inc. and Thomas McDonald Couch, Jr. did not file with the NASD Dispute Resolution, Inc. properly executed submissions agreement but are required to submit to arbitration pursuant to the Code and having answered the claim, are bound by the determination of the Panel on all issues submitted.

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

FINDINGS AND CONCLUSION

Respondent Anthony Frank Giordano has not been served with the Statement of Claim in this matter. The Claimant concedes, and the panel concludes, that the panel does not have the authority to make any award against Respondent Anthony Frank Giordano.

It was not established that the panel has authority to make any award against Respondent Couch & Company.com Holding Company, Inc., and the panel therefore declines to make any award against such Respondent.

The panel finds that it does have authority to make an award against Respondents Couch & Company, Inc. f/k/a Thomas M. Couch, Inc. and Thomas McDonald Couch, Jr. Thomas McDonald Couch, Jr. is a member of the NASD, and holds series 7, 24 and 27 licenses. Respondent Couch & Company, Inc. f/k/a Thomas M. Couch, Inc. was a former NASD member. All were duly served with Claimant's Amended Statement of Claim. Although no written arbitration agreement was produced, based on the documents introduced into evidence and the testimony of Claimant, the panel finds that a standard customer arbitration agreement requiring submission of disputes to the NASD was executed by Claimant and Respondent Couch & Co., Inc. f/k/a Thomas Couch, Inc. in the ordinary course at the time that Claimant's account was opened, and that a copy of this agreement either was lost or was not provided to Claimant. The panel therefore concludes that it has authority to make an award against Respondents Couch & Company, Inc. f/k/a Thomas M. Couch, Inc. and Thomas McDonald Couch, Jr.

In a letter to the NASD Dispute Resolution, Inc. dated January 29, 2002, Thomas McDonald Couch, Jr.'s attorney stated to the NASD Dispute Resolution, Inc. that Thomas McDonald Couch, Jr. had discharged him; on behalf of his former client, however, he requested a continuance of the hearing, which had previously been scheduled for February 25, 2002. By letter to the NASD Dispute Resolution, Inc. dated February 13, 2002, Thomas McDonald Couch, Jr. stated that his attorney had informed him that he would no longer represent him, and Thomas McDonald Couch, Jr. requested a continuance of the hearing in this matter. The Claimant objected to the requests for a continuance.

The panel considered Thomas McDonald Couch, Jr.'s request to continue the hearing in this matter and denied the request on the basis that such a continuance would be prejudicial to the interests of the Claimant and that Thomas McDonald Couch, Jr. has failed and neglected to comply with the conditions for such a continuance set forth in Pre-Hearing Conference Order #5.

The panel therefore convened the hearing as scheduled on February 25, 2002. After hearing the testimony of Claimant and considering the documentary evidence, the panel concludes that Claimant has established that Respondents Couch & Company, Inc. f/k/a Thomas M. Couch, Inc. and Thomas McDonald Couch, Jr. engaged in unfair and deceptive acts and practices in connection with the sales of securities to the Claimant in violation of Hawaii Revised Statute §480-2, and that Claimant met his burden of establishing a claim as a "consumer" as defined by Hawaii Revised Statute §480-1.

AWARD

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

- 1) Respondent Anthony Frank Giordano is dismissed without prejudice.
- 2) Respondent Couch & Company.Com Holding Company, Inc. is dismissed without prejudice.
- 3) Respondents Couch & Co., Inc. f/k/a Thomas Couch, Inc. and Thomas McDonald Couch, Jr. are jointly and severally liable to and shall pay Claimant treble damages of \$475,602.00 pursuant to Hawaii Revised Statutes §§480-2 and 480-13 (based on threefold of Claimant's showing of \$158,534.00 in actual damages).
- 4) Respondents Couch & Co., Inc. f/k/a Thomas Couch, Inc. and Thomas McDonald Couch, Jr. are jointly and severally liable to and shall pay Claimant \$34,794.00 in attorney's fees pursuant to Hawaii Revised Statutes §§480-13(b), 485-20 and by laws and rules of the NASD.
- 5) Respondents Couch & Co., Inc. f/k/a Thomas Couch, Inc. and Thomas McDonald Couch, Jr. are jointly and severally liable to and shall pay Claimant \$2,228.61 in arbitration costs.

- 6) Except as noted above, the parties shall bear their respective costs, including attorney's fees.
- 7) All other relief requested and 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	= \$ 300.00
--------------------------	-------------

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.

The member firm Couch & Co., Inc. f/k/a Thomas Couch, Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 1,500.00
Pre-Hearing Process Fee	= \$ 600.00
<u>Hearing Process Fee</u>	<u>= \$ 2,500.00</u>
Total Member Fees	= \$ 4,600.00

The member firm JW Genesis Financial Services, Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 1,500.00
<u>Pre-Hearing Process Fee</u>	<u>= \$ 600.00</u>
Total Member Fees	= \$ 2,100.00

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:

1 Pre-hearing conference session with a single arbitrator @ \$ 450.00/session	= \$ 450.00
Pre-hearing conference: December 11, 2001 1 session	

3 Pre-hearing conference sessions with the Panel @ \$1,125.00/session	= \$ 3,375.00
Pre-hearing conferences: May 15, 2001 1 session	
October 12, 2001 1 session	
January 15, 2002 1 session	

1 Hearing session @ \$1,125.00/session	= \$ 1,125.00
Hearing: February 25, 2002 1 session	

Total Forum Fees	= \$ 4,950.00
-------------------------	----------------------

1. The Panel assessed \$ 2,475.00 of the forum fees Claimant Loren G. Yamamoto.
2. The Panel assessed \$ 2,475.00 of the forum fees jointly and severally to Respondents Couch & Co., Inc. f/k/a Thomas Couch, Inc. and Thomas McDonald Couch, Jr.

Fee Summary

1. Claimant Loren G. Yamamoto is charged with the following fees and costs:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	= \$ 2,475.00
Total Fees	= \$ 2,775.00
<u>Less payments</u>	= \$(1,425.00)
Balance Due NASD Dispute Resolution, Inc.	= \$ 1,350.00

2. Respondents Thomas McDonald Couch, Jr. and Couch & Co., Inc. f/k/a Thomas Couch, Inc. are charged jointly and severally with the following fees and costs:

<u>Forum Fees</u>	= \$ 2,475.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 2,475.00

3. Respondent Couch & Co., Inc. f/k/a Thomas Couch, Inc. is charged with the following fees and costs:

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

4. Respondent JW Genesis Financial Services, Inc. is charged with the following fees and costs:

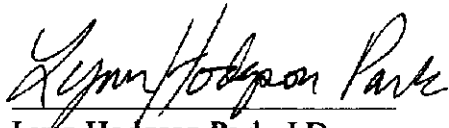
Member Fees	= \$ 2,100.00
<u>Less payments</u>	= \$(1,500.00)
Balance Due NASD Dispute Resolution, Inc.	= \$ 600.00

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

ARBITRATION PANEL

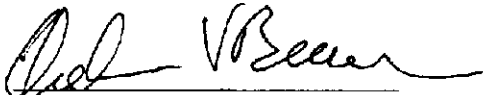
Lynn Hodgson Park, J.D.	-	Public Arbitrator, Presiding Chair
Andrew Beaman	-	Public Arbitrator
Roberta Lee-Driscoll, CFP	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



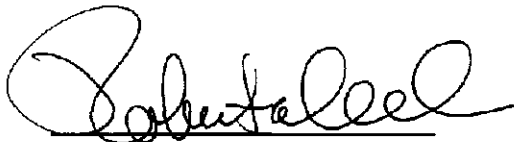
Lynn Hodgson Park, J.D.
Chair, Public Arbitrator

April 5, 2002
Signature Date



Andrew Beaman
Public Arbitrator

April 5, 2002
Signature Date



Roberta Lee-Driscoll, CFP
Non-Public Arbitrator

April 8, 2002
Signature Date

Date of Service

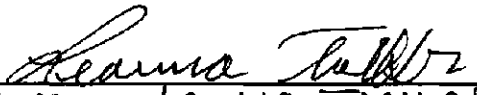
STATE OF HAWAII

CITY AND COUNTY OF HONOLULU

)
) SS.
)

On this 5TH day of April, 2002, before me personally appeared **LYNN H. PARK**, to me personally known to be the person described in and who executed the foregoing instrument, and acknowledged that she executed the same as her free act and deed.

L.S.


Print Name: Leanna Toone
Notary Public for the above-noted State & County
My commission expires: 7-23-2004

STATE OF HAWAII

CITY AND COUNTY OF HONOLULU

)
)
)

SS.

On this 5th day of April, 2002, before me personally appeared **ROBERTA LEE-DRISCOLL**, to me personally known to be the person described in and who executed the foregoing instrument, and acknowledged that she executed the same as her free act and deed.

L.S.


Print Name: LEANNA TUCKER

Notary Public for the above-noted State & County

My commission expires: 7-23-2004

STATE OF HAWAII

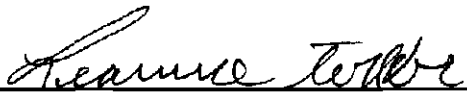
CITY AND COUNTY OF HONOLULU

)
)
)

SS.

On this 5th day of April, 2002, before me personally appeared **ANDREW V. BEAMAN**, to me personally known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

L.S.


Print Name: Leanna Tucker
Notary Public for the above-noted State & County

My commission expires: 7-23-2004

CHUN, KERR, DODD, BEAMAN & WONG

A LIMITED LIABILITY LAW COMPANY
HAWAII TOWER, 9TH FLOOR
745 FORT STREET
HONOLULU, HAWAII 96813-3815
TELEPHONE (808) 528-8200
FACSIMILE (808) 536-5869
www.ckdbw.com

TRANSMITTAL

Via Federal Express

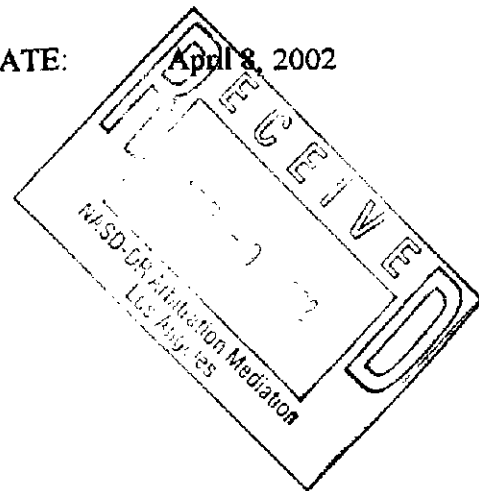
TO: Jeanine E. Schell
NASD Dispute Resolution
300 S. Grand Avenue
Suite 1620
Los Angeles, CA 90071

FROM: Leanna Tucker, Secretary to
Andrew V. Beaman

RE: 00-04691

CC: Lynn H. Park (w/encl.)
Roberta Lee-Driscoll (w/encl.)

DATE: April 8, 2002



No.	Description of Document(s) transmitted herewith:
------------	---

ORIGINAL	Award - NASD Dispute Resolution, Inc.
-----------------	---------------------------------------

<input type="checkbox"/> for review & comment	<input type="checkbox"/> for your information	<input checked="" type="checkbox"/> per your request
<input type="checkbox"/> for review & approval	<input type="checkbox"/> for your files	<input type="checkbox"/> per our conversation
<input type="checkbox"/> for review & file w/ _____	<input type="checkbox"/> for distribution	<input type="checkbox"/> for signature & return
<input type="checkbox"/> for review & record	<input type="checkbox"/> for direct payment	<input type="checkbox"/> for signature & forward to _____
<input type="checkbox"/> for correction	<input type="checkbox"/> for necessary action	<input type="checkbox"/> please call if any questions
<input type="checkbox"/> for substitution	<input type="checkbox"/> see remarks below	<input type="checkbox"/> please call upon receipt

Remarks:

Enclosure