

**Award**  
**NASD Dispute Resolution, Inc.**

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In the Matter of the Arbitration Between:

Jennifer C. Smith, Nicholas P. Smith, Brian E. Mudrick, and Mary A. Coduti, (Claimants) vs.  
Platinum Equities, Inc., John J. Kenny, and Pasquale Forti, (Respondents)

Case Number: 00-05086

Hearing Site: New York, New York

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**REPRESENTATION OF PARTIES**

Claimants, Jennifer C. Smith ("J. Smith"), Nicholas P. Smith ("N. Smith"), Brian E. Mudrick ("Mudrick"), and Mary A. Coduti ("Coduti"), hereinafter collectively referred to as "Claimants": Jason M. Ewasko, Esq., MPR Law Practice, P.C., Peekskill, NY.

Respondents, Platinum Equities, Inc. ("Platinum"), John J. Kenny ("Kenny"), and Pasquale Forti ("Forti"), hereinafter collectively referred to as "Respondent(s)", did not make appearances in this matter.

**CASE INFORMATION**

Statement of Claim filed on or about: November 15, 2000.

J. Smith signed the Uniform Submission Agreement: December 16, 2000.

N. Smith signed the Uniform Submission Agreement: December 16, 2000.

Mudrick signed the Uniform Submission Agreement: December 7, 2000.

Coduti signed the Uniform Submission Agreement: December 7, 2000.

Platinum did not file a Statement of Answer or sign a Uniform Submission Agreement.

Kenny did not file a Statement of Answer or sign a Uniform Submission Agreement.

Forti did not file a Statement of Answer or sign a Uniform Submission Agreement.

**CASE SUMMARY**

Claimants asserted the following causes of action: misrepresentations and omissions; securities fraud; violation of the Securities Exchange Act of 1934 and Rule 10b-5; and control person liability. Claimants' claim involved the preferred stock of Blackheath & Kent Holdings, Inc. and the common stock of New Directions Manufacturing, Inc.

### **RELIEF REQUESTED**

Claimants requested:

1. An Award of \$150,000.00, plus interest, to N. Smith against all Respondents on the first claim;
2. An Award of \$75,000.00, plus interest, to Mudrick and Coduti, jointly and severally, against all Respondents on the first claim;
3. An Award of \$125,945.00, plus interest, to J. Smith against all Respondents on the second claim;
4. An Award of \$136,935.00, plus interest, to N. Smith against all Respondents on the second claim;
5. A finding of control person liability against Kenny and Forti; and
6. Such other, further, and different relief as the Panel deems just and equitable.

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

Upon review of the file and the representations made on behalf of the Claimants, the undersigned arbitrators (the "Panel") determined that Platinum, Kenny, and Forti 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 Platinum, Kenny, and Forti present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

Platinum, Kenny, and Forti did not file with NASD Dispute Resolution, Inc. properly executed submissions to arbitration but are required to submit to arbitration pursuant to the Code and are bound by the determination of the Panel on all issues submitted.

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

### **AWARD**

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

1. Respondents be and hereby are jointly and severally liable for and shall pay to N. Smith the sum of \$289,151.25 as compensatory damages, plus interest at the rate of 9% accruing from April 6, 1998 until paid.

2. Respondents be and hereby are jointly and severally liable for and shall pay to J. Smith the sum of \$128,407.75 as compensatory damages, plus interest at the rate of 9% accruing from April 6, 1998 until paid.
3. Respondents be and hereby are jointly and severally liable for and shall pay to Mudrick and Coduti, jointly and severally, the sum of \$75,000.00 as compensatory damages, plus interest at the rate of 9% accruing from December 12, 1997 until paid.
4. All other requests for relief are 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
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#### **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 persons at the time of the events giving rise to the dispute. In this matter, Platinum Equities, Inc. is a party.

Member surcharge	= \$1,500.00
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#### **Forum Fees and Assessments**

The Panel assesses 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 arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with Panel x \$1,125.00	= \$1,125.00
Pre-hearing conference: July 24, 2001	1 session

Two (2) Hearing sessions x \$1,125.00	= \$2,250.00
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Hearing Date: November 16, 2001	2 sessions
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Total Forum Fees	= \$3,375.00
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The Panel has assessed all of the forum fees jointly and severally against Respondents.

**Fee Summary**

1. Claimants be and hereby are jointly and severally liable for:

<u>Initial Filing Fee</u>	= \$ 300.00
<u>Total Fees</u>	= \$ 300.00
<u>Less payments</u>	= \$1,425.00
<u>Refund Due Claimants</u>	= \$1,125.00

2. Platinum be and hereby is solely liable for:

<u>Member Fees</u>	= \$1,500.00
<u>Total Fees</u>	= \$1,500.00
<u>Less payments</u>	= \$ 0.00
<u>Balance Due NASD Dispute Resolution, Inc.</u>	= \$1,500.00

3. Respondents be and hereby are jointly and severally liable for:

<u>Forum Fees</u>	= \$3,375.00
<u>Total Fees</u>	= \$3,375.00
<u>Less payments</u>	= \$ 0.00
<u>Balance Due NASD Dispute Resolution, Inc.</u>	= \$3,375.00

All balances are due and payable to NASD Dispute Resolution, Inc.

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**ARBITRATION PANEL**

William H. Hagendorn, Esq.	-	Public Arbitrator, Presiding Chair
Blair Allen, Esq.	-	Public Arbitrator
Elizabeth Snow Stong, Esq.	-	Industry Arbitrator

**Concurring Arbitrators' Signatures**

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

  
William H. Hagendorn, Esq.  
Public Arbitrator, Presiding Chair

Dec 4, 2001  
Signature Date

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Blair Allen, Esq.  
Public Arbitrator

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

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Elizabeth Snow Stong, Esq.  
Industry Arbitrator

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

December 28, 2001  
Date of Service (For NASD office use only)

**ARBITRATION PANEL**

William H. Hagendorn, Esq.	-	Public Arbitrator, Presiding Chair
Blair Allen, Esq.	-	Public Arbitrator
Elizabeth Snow Stong, Esq.	-	Industry Arbitrator

**Concurring Arbitrators' Signatures**

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

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William H. Hagendorn, Esq.  
Public Arbitrator, Presiding Chair

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Signature Date

  
Blair Allen, Esq.  
Public Arbitrator

  
Signature Date

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Elizabeth Snow Stong, Esq.  
Industry Arbitrator

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Signature Date

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December 28, 2001

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Date of Service (For NASD office use only)

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**ARBITRATION PANEL**

William H. Hagendorn, Esq.	-	Public Arbitrator, Presiding Chair
Blair Allen, Esq.	-	Public Arbitrator
Elizabeth Snow Stong, Esq.	-	Industry Arbitrator

**Concurring Arbitrators' Signatures**

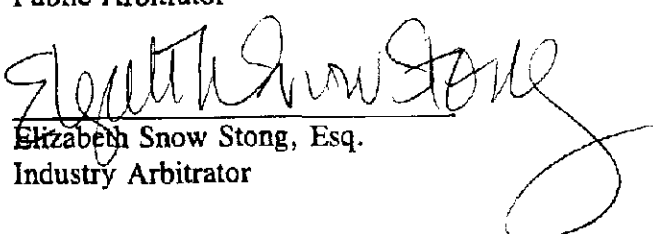
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William H. Hagendorn, Esq.  
Public Arbitrator, Presiding Chair

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Signature Date

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Blair Allen, Esq.  
Public Arbitrator

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

  
\_\_\_\_\_  
Elizabeth Snow Stong, Esq.  
Industry Arbitrator

12/4/01  
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Signature Date

December 28, 2001

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Date of Service (For NASD office use only)