

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimants

Rolf Tragbar
Gloria Tragbar

Case Number: 00-05490

Name of the Respondents

Marshall Myers
First Union Securities, Inc.

Hearing Site: Philadelphia, PA

REPRESENTATION OF PARTIES

Claimants, Rolf and Gloria Tragbar, hereinafter collectively referred to as "Claimants": Richard E. Miller, Esq., Braverman Kadkey & Caprara, Philadelphia, Pennsylvania.

Respondent Marshall Myers ("Myers"): Andrew W. Davitt, Esq. and Dennis Dice, Esq., Marshall, Dennehey, Warner, Coleman and Goggin, Philadelphia, Pennsylvania.

Respondent First Union Securities, Inc. ("First Union"): Brian A. Carlis, Esq., Stark and Stark, Philadelphia, Pennsylvania.

CASE INFORMATION

Statement of Claim filed on December 6, 2000.

Claimants signed the Uniform Submission Agreement on November 19, 2000.

Statement of Answer filed by Respondent Myers on May 18, 2001.

Respondent Myers did not sign the Uniform Submission Agreement.

Statement of Answer filed by Respondent First Union on April 16, 2001.

Respondent First Union signed the Uniform Submission Agreement on February 2, 2001.

CASE SUMMARY

Claimants asserted the following causes of action: unauthorized trades; breach of fiduciary duty; fraud; negligence; breach of contract; recklessly, wantonly and willingly fabricating a story; and, breach of duty of supervision. The causes of action relate to the order execution of Yahoo! stock.

Unless specifically admitted in its Answer, Respondent Myers denied the allegations made in the Statement of Claim and asserted the following defenses, among others:

failure to state a claim upon which relief can be granted; ratification of each and every transaction; estoppel; failure to mitigate damages; no breach of any fiduciary duty owed; no intent to defraud; and, no misrepresentations or omissions of material fact.

Unless specifically admitted in its Answer, Respondent First Union denied the allegations made in the Statement of Claim and asserted the following defenses, among others: failure to state a claim upon which relief can be granted; ratification of each and every transaction; estoppel; failure to mitigate damages; no fiduciary duty owed; no intent to defraud; and, no misrepresentations or omissions of material fact.

RELIEF REQUESTED

Claimants requested:

Compensatory Damages	\$ 1,000,000.00
Punitive Damages	unspecified
Interest	unspecified
Attorneys' Fees	unspecified
Other Costs	unspecified

Respondent Myers requested that the claim be dismissed, along with expungement of his CRD record, together with an award of all reasonable costs, including attorney's fees.

Respondent First Union requested that the claim be dismissed with an award of all reasonable costs including attorney's fees.

OTHER ISSUES CONSIDERED AND DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart copies.

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. Claimants are awarded \$50,000.00 in compensatory damages, to be paid by Respondent First Union;
2. No interest is awarded on this amount;
3. The parties shall bear their respective costs and expenses, including attorneys' fees, except as Fees are specifically addressed below; and,
4. Any and all relief not specifically addressed herein, including punitive damages, is denied in its entirety.

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 = \$ 375

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, Respondent First Union is a party.

Member surcharge = \$ 2,000
Pre-hearing process fee = \$ 600
Hearing process fee = \$ 3,500

Forum Fees and Assessments

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

Two (2) Pre-hearing sessions with a single arbitrator @ \$ 450 = \$ 900
Pre-hearing conferences: December 12, 2001 1 session
March 27, 2002 1 session

One (1) Pre-hearing session with Panel @ \$ 1,200 = \$ 1,200
Pre-hearing conference: October 29, 2001 1 session

Six (6) Hearing sessions @ \$ 1,200 = \$ 7,200
Hearing Dates: April 17, 2002 2 sessions
April 18, 2002 2 sessions
June 20, 2002 2 sessions

Total Forum Fees = \$ 9,300

The Panel has assessed \$9,300.00 of the forum fees to Respondent First Union.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

Respondent Myers, requested copies of 7 tapes = \$ 105

Fee Summary

1. Claimants are solely liable for:

Initial Filing Fee	= \$ 375
Total Fees	= \$ 375
Less payments	= \$ 1,575
Refund owed to Claimants	= \$ 1,200

2. Respondent, Myers, is solely liable for:

Administrative Costs	= \$ 105
Total Fees	= \$ 105
Less payments	= \$ 105
Balance Due NASD Dispute Resolution	= \$ 00

3. Respondent, First Union, is solely liable for:

Member Fees	= \$ 6,100
Forum Fees	= \$ 9,300
Total Fees	= \$ 15,400
Less payments	= \$ 6,100
Balance Due NASD Dispute Resolution	= \$ 9,300

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

ARBITRATION PANEL

Edward Greer, Esq.	-	Public Arbitrator, Chairperson
Marshall S. Galinsky	-	Public Arbitrator, Panelist
Richard A. Purkiss	-	Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures

Edward Greer

Edward Greer, Esq.

Public Arbitrator, Presiding Chairperson

7/19/02

Signature Date

Marshall S. Galinsky, Esq.

Public Arbitrator, Panelist

Signature Date

Richard A. Purkiss

Non-Public Arbitrator, Panelist

Signature Date

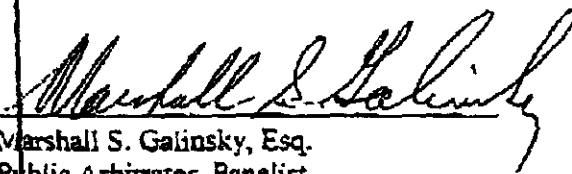
July 23, 2002

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

Concurring Arbitrators' Signatures

Edward Greer, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date



Marshall S. Galinsky, Esq.
Public Arbitrator, Panelist

7/21/02

Signature Date

Richard A. Purkiss
Non-Public Arbitrator, Panelist

Signature Date

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Edward Greer, Esq.
Public Arbitrator, Presiding Chairperson

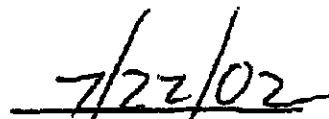
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