

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

---

In the Matter of the Arbitration Between:

Names of the Claimants

Barry M. and Rochelle Sinrod

Case Number: 01-00437

Names of the Respondents

Bradford A. Miller  
Benson York Group, Inc.  
Michael H. Caldera  
Gregory Goldstein  
Steven J. Cohen

Hearing Site: Boca Raton, Florida

---

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

**REPRESENTATION OF PARTIES**

For Barry M. and Rochelle Sinrod ("Sinrod"), hereinafter referred to as "Claimants": Steven D. Toskes, Esq., Klayman and Toskes, P.A., Boca Raton, Florida.

For Respondents Bradford A. Miller ("Miller"), Benson York Group, Inc. ("BYG") and Michael H. Caldera ("Caldera"): Robert Ouriel, Law Office of Robert Ouriel, New York, New York.

For Respondents Gregory Goldstein ("Goldstein") and Steven J. Cohen ("Cohen"): Martin P. Unger, Certilman Balin Alder & Hyman, LLP, East Meadow, New York.

**CASE INFORMATION**

Statement of Claim filed on or about: January 25, 2001.

Claimants signed the Uniform Submission Agreement: January 11, 2001.

Statement of Answer filed by Respondents Miller, BYG, Caldera and Cohen on or about: May 6, 2001.

Statement of Answer filed by Respondent Goldstein on or about: March 29, 2001.

Respondent Miller signed the Uniform Submission Agreements: May 8, 2001 and August 14, 2001.

Respondent BYG signed the Uniform Submission Agreements: May 3, 2001 and August 15, 2001.

Respondent Caldera signed the Uniform Submission Agreements: May 3, 2001 and August 15, 2001.

Respondent Goldstein signed the Uniform Submission Agreement: April 11, 2001.

Respondent Cohen signed the Uniform Submission Agreement: May 8, 2001.

Counterclaim and Motion to Dismiss filed by Respondents BYG, Caldera and Miller on or about: August 16, 2001.

Reply to Counterclaim and Motion to Dismiss filed by Claimants on or about: June 25, 2001.

### **CASE SUMMARY**

Claimants asserted the following causes of action: 1) breach of fiduciary and contractual duties; 2) common law fraud; 3) negligence and gross negligence; 4) violation of federal securities laws; and 5) failure to supervise. The causes of action relate to the sale of shares of stock of AOL, the purchase and sale of shares of stock of Cell Pathways, E.Spire Communications, Reliance Group Holdings, Speedus.com, Savvis Communications, The Globe.com and other unspecified shares of stock including those made on margin.

Unless specifically admitted in their Answers, Respondents denied the allegations made in the Statement of Claim and asserted various defenses.

In their Counterclaim, Respondents BYG, Caldera and Miller asserted the following causes of action: 1) abuse of NASD process; 2) libel; 3) slander per se; 4) interference with prospective business advantage; 5) violation of New York General Business Law Section 349; and 6) intentional infliction of emotional distress.

Unless specifically admitted in their Reply to the Counterclaim, Claimants denied the allegations made in the Counterclaim and asserted various defenses.

### **RELIEF REQUESTED**

Claimants requested compensatory damages of \$450,000.00, plus interest, punitive damages, attorney's fees, the costs of this proceeding and such other relief as is deemed just and proper. In addition, Claimants requested that all claims set forth in the Counterclaim against them be denied.

Respondent Goldstein requested that all claims against him be dismissed with prejudice, that he be awarded costs, attorney's fees and such other relief as is deemed just and proper.

Respondents BYG, Caldera, Cohen and Miller requested that all claims against them be dismissed with prejudice, that they be awarded costs, attorney's fees and such other relief as is deemed just and proper.

In their Counterclaim, Respondents BYG, Caldera and Miller requested compensatory damages of \$5,070,000.00, plus treble damages, punitive damages of \$1,000,000.00, sanctions of \$10,000.00, attorney's fees, costs and such other and further relief as is deemed just and proper. In addition, Respondents Caldera and Miller requested that all references to this matter be expunged from their NASD Central Registration Depository ("CRD") records.

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

On or about March 6, 2003, Claimants advised NASD Dispute Resolution that they had settled the matter with Respondents BYG, Caldera and Miller.

On or about March 10, 2003, Claimants advised NASD Dispute Resolution that they were withdrawing all pending claims in the matter.

On or about April 15, 2003, Respondents Goldstein and Cohen requested that all references to this matter be expunged from their registration records maintained by the NASD CRD.

On or about May 18, 2003, the undersigned arbitrators (the "Panel") entered an Order granting Respondents Goldstein and Cohen's request for an expungement of their registration records maintained by the NASD CRD.

On or about April 2, 2004, Respondents BYG, Miller and Caldera advised NASD Dispute Resolution that they had withdrawn all counterclaims in this arbitration proceeding.

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

### **AWARD**

After considering the pleadings, the testimony and the Request for Expungement, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimants' ex parte withdrawal of all pending claims is accepted.
2. Respondents BYG, Miller and Caldera's withdrawal of all counterclaims is accepted.
3. The Panel recommends the expungement of all references to the above captioned arbitration from Respondents Goldstein and Cohen's public and non-public registration records maintained by the NASD CRD, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondents Goldstein and Cohen must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

### **FEES**

Pursuant to the NASD Code of Arbitration Procedure (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
Counterclaim filing fee	= \$5,000.00

#### **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 persons at the time of the events giving rise to the dispute. Accordingly, Respondent BYG is a member firm and a party.

Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$5,000.00

#### **Adjournment Fees**

No adjournments were granted during these proceedings for which fees were assessed.

#### **Injunctive Relief Fees**

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the panel.

No injunctive relief fees were incurred during these proceedings.

#### **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:

Three (3) Pre-hearing sessions with the Panel @ \$1,125.00	= \$3,375.00
Pre-hearing conferences:	
August 31, 2001	1 session
December 11, 2001	1 session
March 26, 2002	1 session
Four (4) Hearing sessions @ \$1,125.00	= \$4,500.00
Hearing Dates:	
January 31, 2002	2 sessions
February 1, 2002	2 sessions
Total Forum Fees	= \$7,875.00

The Panel has assessed the total forum fees of \$7,875.00 jointly and severally to Claimants.

#### **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.

No administrative fees were incurred during these proceedings.

**Fee Summary**

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	<u>= \$7,875.00</u>
Total Fees	= \$8,175.00
<u>Less payments</u>	<u>= \$1,425.00</u>
Balance Due NASD Dispute Resolution	= \$6,750.00

Respondent BYG is solely liable for:

<u>Member Fees</u>	<u>= \$7,100.00</u>
Total Fees	= \$7,100.00
<u>Less payments</u>	<u>= \$7,100.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents BYG, Miller and Caldera are jointly and severally liable for:

Counterclaim Filing Fee	= \$5,000.00
<u>Retained Hearing Session Deposit</u>	<u>= \$1,200.00</u>
Total Fees	= \$6,200.00
<u>Less payments</u>	<u>= \$6,200.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

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

**ARBITRATION PANEL**

<i>Stuart M. Rapee, Esq.</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Norman Ciment, Esq.</i>	-	<i>Public Arbitrator</i>
<i>Richard F. Lang</i>	-	<i>Non-Public Arbitrator</i>

**Concurring Arbitrators' Signatures**

\_\_\_\_\_  
/s/  
Stuart M. Rapee, Esq.  
Public Arbitrator, Presiding Chairperson

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

\_\_\_\_\_  
/s/  
Norman Ciment, Esq.  
Public Arbitrator

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

/s/

Richard F. Lang  
Non-Public Arbitrator

Signature Date

April 27, 2004

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

**Fee Summary**

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	= <u>\$7,875.00</u>
Total Fees	= \$8,175.00
<u>Less payments</u>	= <u>\$1,425.00</u>
Balance Due NASD Dispute Resolution	= \$6,750.00

Respondent BYG is solely liable for:

<u>Member Fees</u>	= <u>\$7,100.00</u>
Total Fees	= \$7,100.00
<u>Less payments</u>	= <u>\$7,100.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents BYG, Miller and Caldera are jointly and severally liable for:

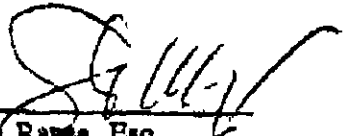
Counterclaim Filing Fee	= \$5,000.00
<u>Retained Hearing Session Deposit</u>	= <u>\$1,200.00</u>
Total Fees	= \$6,200.00
<u>Less payments</u>	= <u>\$6,200.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

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

**ARBITRATION PANEL**

Stuart M. Rapee, Esq.	-	Public Arbitrator, Presiding Chairperson
Norman Ciment, Esq.	-	Public Arbitrator
Richard F. Lang	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

  
 Stuart M. Rapee, Esq.  
 Public Arbitrator, Presiding Chairperson

20 Apr 2008  
 Signature Date

\_\_\_\_\_  
 Norman Ciment, Esq.  
 Public Arbitrator

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

Fee Summary

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$7,875.00
Total Fees	= \$8,175.00
Less payments	= \$1,425.00
Balance Due NASD Dispute Resolution	= \$6,750.00

Respondent BYG is solely liable for:

Member Fees	= \$7,100.00
Total Fees	= \$7,100.00
Less payments	= \$7,100.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents BYG, Miller and Caldera are jointly and severally liable for:

Counterclaim Filing Fee	= \$5,000.00
Retained Hearing Session Deposit	= \$1,200.00
Total Fees	= \$6,200.00
Less payments	= \$6,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

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

ARBITRATION PANEL

Stuart M. Rapee, Esq.	•	Public Arbitrator, Presiding Chairperson
Norman Ciment, Esq.	•	Public Arbitrator
Richard F. Lang	•	Non-Public Arbitrator

Concurring Arbitrators' Signatures

\_\_\_\_\_  
Stuart M. Rapee, Esq.  
Public Arbitrator, Presiding Chairperson

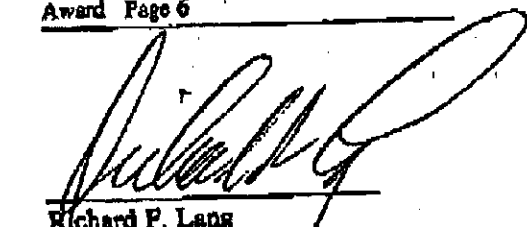
  
\_\_\_\_\_  
Norman Ciment, Esq.  
Public Arbitrator

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

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



NASD Dispute Resolution  
Arbitration No. 01-00437  
Award Page 6

  
Richard P. Lang  
Non-Public Arbitrator

4/22/04  
Signature Date

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