
Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Emile Wanich
Rhoda Wanich

Case Number: 01-02571

Names of the Respondents

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

Hearing Site: Boca Raton, Florida

REPRESENTATION OF PARTIES

For Emile Wanich and Rhoda Wanich, hereinafter collectively referred to as "Claimants": Lawrence L. Klayman, Esq. and Steven D. Toskes, Esq., Klayman & Toskes, P.A., Boca Raton, Florida.

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

For Respondents Gregory E. Goldstein ("Goldstein") and Steven J. Cohen ("Cohen"): Martin P. Unger, Esq., Blank Rome Tenzer Greenblatt, LLP., New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: May 16, 2001.

Claimants signed the Uniform Submission Agreement: April 27, 2001.

Statement of Answer and Motion to Dismiss filed by Respondents Benson York, Caldera and Miller on or about: August 16, 2001.

Statement of Answer filed by Respondents Goldstein and Cohen on or about: July 19, 2001.

Respondent Benson York signed the Uniform Submission Agreement: August 15, 2001.

Respondent Goldstein signed the Uniform Submission Agreement: June 15, 2001.

Respondent Cohen signed the Uniform Submission Agreement: June 27, 2001.

Respondent Miller signed the Uniform Submission Agreement: August 14, 2001.

Respondent Caldera signed the Uniform Submission Agreement: August 15, 2001.

Motion to Dismiss filed by Respondents Goldstein and Cohen on or about: May 31, 2002.

Response to Respondents Goldstein and Cohen's Motion to Dismiss filed by Claimants on or about: June 11, 2002.

Reply in Support of Motion to Dismiss filed by Respondents Goldstein and Cohen on or about: June 19, 2002.

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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 Section 10(b) of the Securities Exchange Act of 1934; 5) control person liability pursuant to 15 USC Section 78tm; 6) churning; 7) unsuitable recommendations; 8) unauthorized trades; and, 9) violation of NASD Conduct Rules. The causes of action relate to the purchase of various stocks in Claimants' account including, but not limited to, Audiovox, Cell Pathways, Internet Pictures, Speedus.com and Unify.

Unless specifically admitted in their Answer and Motion to Dismiss, Respondents Benson York, Caldera and Miller denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

Unless specifically admitted in their Answer, Respondents Goldstein and Cohen denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$250,000.00, interest, costs, attorney's fees, punitive damages and such other relief as the Panel deems necessary and proper.

Respondents Benson York, Caldera and Miller requested that the Statement of Claim be dismissed in its entirety, costs and fees, reasonable attorney's fees, expungement of this matter from their Central Registration Depository ("CRD") records and such other and further relief as the Panel deems just and proper.

Respondents Goldstein and Cohen requested that the Statement of Claim be dismissed with prejudice, costs, attorney's fees and for such other relief as the Panel deems fit.

OTHER ISSUES CONSIDERED AND DECIDED

On or about January 24, 2003, Claimants notified NASD that they had settled this matter with respect to Respondents Benson York, Caldera and Miller.

On or about March 28, 2003, Claimants notified NASD that they had reached a settlement agreement with the remaining Respondents and would be submitting a proposed Stipulated Award.

The Panel deferred ruling on the Motions to Dismiss of Respondents Benson York, Caldera, Miller, Goldstein and Cohen. The settlement of this matter between the parties rendered these motions moot.

On or about June 30, 2003, Claimants and Respondents Goldstein and Cohen filed with NASD an agreed to, proposed Stipulated Award recommending expungement of the CRD records of said Respondents.

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

AWARD

After considering the pleadings and the proposed Stipulated Award recommending expungement, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

- 1) Claimants' claims for relief are dismissed with prejudice.
- 2) 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 Notice 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.
- 3) Claimants and Respondents Goldstein and Cohen shall divide responsibility for all NASD forum fees 50/50, except Respondents Goldstein and Cohen shall jointly bear any session fee cost associated with securing the expungement order from the CRD records.
- 4) Any and all claims for relief not specifically addressed herein, including Claimants' requests for attorney's fees and punitive damages, are denied.

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 |
|--------------------------|------------|

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 person at the time of the events giving rise to the dispute. Accordingly, Benson York is a party to this dispute and was a member of the NASD at the time the following fees were assessed:

| | |
|-------------------------|--------------|
| Member surcharge | = \$1,500.00 |
| Pre-hearing process fee | = \$ 600.00 |
| Hearing process fee | = \$2,500.00 |

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

August 19, 2002 – August 21, 2002, adjournment by Respondents Benson York and Caldera = \$1,125.00

Injunctive Relief Fees

No injunctive relief fees were incurred during this proceeding.

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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:

Two (2) Pre-hearing sessions with Panel @ \$1,125.00 = \$2,250.00

Pre-hearing Conferences: December 17, 2001 1 session

June 28, 2002 1 session

Total Forum Fees = \$2,250.00

The Panel has assessed \$1,125.00 of the forum fees jointly and severally to Claimants.

The Panel has assessed \$1,125.00 of the forum fees jointly and severally to Respondents Cohen and Goldstein.

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 costs were incurred during this proceeding.

Fee Summary

Claimants are jointly and severally liable for:

Initial Filing Fee = \$ 300.00

Forum Fees = \$ 1,125.00

Total Fees = \$ 1,425.00

Less payments = \$ 1,425.00

Balance Due NASD Dispute Resolution = \$ 0.00

Respondent Benson York is solely liable for:

Member Fees = \$ 4,600.00

Total Fees = \$ 4,600.00

Less payments = \$ 4,600.00

Balance Due NASD Dispute Resolution = \$ 0.00

Respondents Benson York and Caldera are jointly and severally liable for:

Adjournment Fee = \$1,125.00

Total Fees = \$1,125.00

Less payments = \$ 400.00

Balance Due NASD Dispute Resolution = \$ 725.00

Respondents Goldstein and Cohen are jointly and severally liable for:

Forum Fees = \$ 1,125.00

Total Fees = \$ 1,125.00

Less payments = \$ 0.00

Balance due NASD Dispute Resolution = \$ 1,125.00

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

ARBITRATION PANEL

Mark A. Buckstein, Esq.

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Public Arbitrator, Presiding Chairperson

Samuel R. Young, Jr., Esq.

-

Public Arbitrator

Harry Dressler

-

Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/

Mark A. Buckstein, Esq.

Public Arbitrator, Presiding Chairperson

7/28/03

Signature Date

/s/

Samuel R. Young, Jr., Esq.

Public Arbitrator

7/14/03

Signature Date

/s/

Harry Dressler

Non-Public Arbitrator

7/10/03

Signature Date

8/1/03

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

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Mark A. Buckstein, Esq.

Samuel R. Young, Jr., Esq.

Harry Dressler

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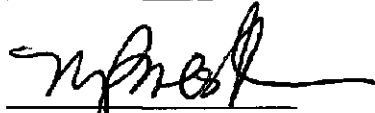
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Public Arbitrator, Presiding Chairperson

Public Arbitrator

Non-Public Arbitrator

Concurring Arbitrators' Signatures



Mark A. Buckstein, Esq.

Public Arbitrator, Presiding Chairperson

7/28/03

Signature Date

Samuel R. Young, Jr., Esq.

Public Arbitrator

Signature Date

Harry Dressler

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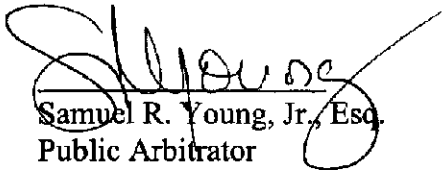
Non-Public Arbitrator

Concurring Arbitrators' Signatures

Mark A. Buckstein, Esq.

Public Arbitrator, Presiding Chairperson

Signature Date



Samuel R. Young, Jr., Esq.
Public Arbitrator

July 14, 2003

Signature Date

Harry Dressler

Non-Public Arbitrator

Signature Date

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Public Arbitrator

Harry Dressler

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Non-Public Arbitrator

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Mark A. Buckstein, Esq.

Public Arbitrator, Presiding Chairperson

Signature Date

Samuel R. Young, Jr., Esq.

Public Arbitrator

Signature Date



Harry Dressler

Non-Public Arbitrator

7/10/03

Signature Date

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