

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between

Name of Claimants

Robert Berkowitz
Linda Berkowitz

Case No. 01-02948

Name of Respondents

Tucker Anthony Midlantic Division
Stephen A. Iatarola

Hearing Site: Philadelphia, PA

REPRESENTATION OF PARTIES

Claimants Robert and Linda Berkowitz, hereinafter referred to as "Claimants": Marc S. Henzel, Esq., Law Offices of Marc S. Henzel, Bala Cynwyd, Pennsylvania.

Respondents, Tucker Anthony Midlantic Division ("Tucker Anthony") and Stephen A. Iatarola ("Iatarola"), hereinafter collectively referred to as "Respondents": David J. Campbell, Esq., Bressler Amery & Ross, New York, New York.

CASE INFORMATION

Statement of Claim filed on or about May 31, 2001.

Claimants signed the Uniform Submission Agreement on May 22, 2001.

Statement of Answer filed by Respondents on August 21, 2001.

Respondents did not sign a Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: misrepresentation; unsuitability; churning; breach of fiduciary duty; breach of contract; fraud; detrimental reliance; failure to supervise; negligence; violation of Pennsylvania Unfair Trade Practices and Consumer Protection Law Act of 1968 P.L. 1224 No. 387; and, violation of section 501 of the Pennsylvania Securities Act 70 P.S. 1-501. The causes of action relate to the purchase of IT Capital Ltd, Buy.com, and Sequenom, Inc. stock, among others.

Unless specifically admitted in its Answer, Respondents 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; barred by doctrines of laches, waiver, ratification and estoppel; and, failure to mitigate damages.

RELIEF REQUESTED

Claimants requested:

Compensatory Damages	\$ 250,000.00
Interest	amount unspecified
Attorney's fees	amount unspecified
Other Costs	amount unspecified

Respondents requested that the Statement of Claim be dismissed with prejudice.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents did not file with NASD Dispute Resolution, Inc. a properly executed submission to arbitration but are required to submit to arbitration pursuant to the Code of Arbitration Procedure ("the Code"), and having answered the claim, appeared and testified at the hearing, are bound by the determination of the Panel on all issues submitted.

At the hearing, the Respondents made a Motion to Dismiss on the Merits, Motion to Dismiss for Failure to Comply with Rule 10305(b) of the Code, and Motion to Dismiss for inclusion in pending class actions under Rule 10301(d)(2) of the Code. All aforementioned motions were denied by the Panel.

Respondent Iatarola made a Motion to Expunge his CRD record. The panel granted said motion.

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. That Claimant's claims against Respondents are denied in their entirety;
2. That the Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Iatarola's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Iatarola must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
3. That the parties shall bear their respective costs, including attorney's fees, except as Fees are specifically addressed below; and,
4. That any and all claims for relief not specifically addressed herein are denied in their entirety.

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

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. In this matter, Respondent Tucker Anthony is a member of NASD.

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:

June 20 and 21, 2002, adjournment by Claimants = \$ 562.50

June 20 and 21, 2002, adjournment by Respondents = \$ 562.50

Forum Fees and Assessments

The panel has the authority to assess forum fees for each hearing session conducted. A hearing 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:

One (1) Pre-hearing session with Panel x \$ 1,125.00 = \$ 1,125.00

Pre-hearing conference: December 28, 2001 1 session

One (1) Pre-hearing session with a single arbitrator x 450.00 = \$ 450.00

Hearing Date: May 31, 2002 1 session

Four (4) Hearing sessions x \$ 1,125.00 = \$ 4,500.00

Hearing Dates: August 13, 2002 2 sessions

August 14, 2002 2 sessions

Total Forum Fees = \$ 6,075.00

The panel has assessed \$3,037.50 of the forum fees to Claimant.

The panel has assessed \$3,037.50 of the forum fees jointly and severally to Respondents.

Fee Summary

Claimant is liable for:

Initial Filing Fee	= \$ 300.00
Adjournment Fee	= \$ 562.50
Forum Fees	= \$ 3,307.50

Total Fees	= \$ 3,900.00
Less payments	= \$ 1,575.00

Balance Due NASD Dispute Resolution, Inc.	= \$ 2,325.00
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Respondent Tucker Anthony is liable for:

Member Fees	= \$ 4,600.00
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Total Fees	= \$ 4,600.00
Less payments	= \$ 4,600.00

Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00
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Respondents Tucker Anthony and Iatarola are jointly and severally liable for:

Adjournment Fees	= \$ 562.50
Forum Fees	= \$ 3,037.50

Total Fees	= \$ 3,600.00
Less payments	= \$ 562.50

Balance Due NASD Dispute Resolution, Inc.	= \$ 3,037.50
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All balances are due to NASD Dispute Resolution.

ARBITRATION PANEL

Carole D. Green, Esq.	-	Public Arbitrator, Chairperson
John B.M. Place	-	Public Arbitrator, Panelist
Frederick J. Arnold	-	Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures

Carole D. Green
Carole D. Green, Esq.
Public Arbitrator, Chairperson

9/24/02
Signature Date

John B.M. Place
John B.M. Place
Public Arbitrator, Panelist

Signature Date

Frederick J. Arnold
Frederick J. Arnold
Non-Public Arbitrator, Panelist

Signature Date

9/30/02

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

ARBITRATION PANEL

Carole D. Green, Esq.

-

Public Arbitrator, Chairperson

John B.M. Place

-

Public Arbitrator, Panelist

Frederick J. Arnold

-

Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures

Carole D. Green, Esq.

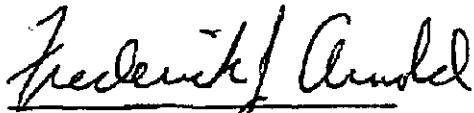
Public Arbitrator, Chairperson

Signature Date

John B.M. Place

Public Arbitrator, Panelist

Signature Date



Frederick J. Arnold

Non-Public Arbitrator, Panelist

9/30/02

Signature Date

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