

**AWARD**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between

Name of Claimant

Alexander Boardman

and

01-03163  
Denver, Colorado

Name of Respondent

Hornblower & Weeks, Inc.

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**REPRESENTATION OF PARTIES**

Alexander Boardman ("Claimant") was represented by William R. Fishman, Esq., Attorney at Law, Denver, Colorado.

Hornblower & Weeks, Inc. ("Respondent") was represented by Eric Ellenhorn, Hornblower & Weeks, Inc., New York, New York, but did not appear at the hearing.

**CASE INFORMATION**

The Statement of Claim was filed on or about June 14, 2001. Submission Agreement of Claimant Alexander Boardman was signed on June 11, 2001.

Statement of Answer was filed by Respondent Hornblower & Weeks, Inc. on or about November 7, 2001. Submission Agreement of Respondent Hornblower & Weeks, Inc. was signed on November 1, 2001.

**CASE SUMMARY**

Claimant asserted the following causes of action: misrepresentations, omissions, common law fraud, violations of Colorado Securities Act, violations of Federal Securities Laws, outrageous conduct and suitability. The causes of action relate to the alleged solicitation of Claimant into the purchase of "Complete Wellness Centers, Inc." shares. Claimant alleged that he was not given full disclosure as to the financial stability of "Wellness" and as a result, caused Claimant to sustain losses when company went bankrupt.

Respondent Hornblower & Weeks, Inc. denied the allegations made in the Statement of Claim and asserted some of the following defenses: Claimant failed to state a claim upon which relief may be granted; the damages claimants seeks to hold Respondent liable for resulted, in whole or in part from Claimant's own acts or omissions, and Respondent is in no way responsible for or liable to Claimant

for his own lawful or negligent acts or omissions; Claimant's claim should be barred due to his failure to mitigate damages; the alleged damages of Claimant were caused by Claimant's own contributory negligence; Claimant through his own actions and conduct, approved, authorized, and/or ratified Respondent's actions and through this conduct should be estopped from recovery; Claimant assumed the risks incident to investing in securities and any losses sustained by the Claimant were caused by and arose out of his assumption of such risks; and that Respondent maintained an adequate and reasonable system of supervision and control over its employees and all times acted on good faith.

### **RELIEF REQUESTED**

Claimant requested an award in the amount of \$61,636.25 in compensatory damages. In addition, Claimant had asked for punitive damages, attorneys' fees, costs, and any other relief as this panel deem just and proper.

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded costs and attorneys' fees in defense of this claim.

### **OTHER ISSUES CONSIDERED & DECIDED**

Upon review of the file and the representations made by the Claimant, the undersigned arbitrators have determined that Respondent Hornblower & Weeks, Inc., had been properly served with the Statement of Claim pursuant to Rule 10314 of NASD Code of Arbitration Procedure (the "Code"). The undersigned arbitrators have also determined that Respondent Hornblower & Weeks, Inc., had received due notice of the hearing as required under Rule 10315 of the Code and that arbitration of the matter would proceed pursuant to Rule 10318 of the Code.

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. In either case, the parties have agreed to receive conformed copies of the award while the originals remain on file with NASD Dispute Resolution ("NASD").

### **AWARD**

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

1. Respondent Hornblower & Weeks, Inc., is liable for and shall pay to Claimant, Alexander Boardman, the sum of Forty Five Thousand, Two Hundred Nine Dollars and Two Cents (\$45,209.02) as compensatory damages.

2. Respondent Hornblower & Weeks, Inc., is liable for and shall pay to Claimant, Alexander Boardman, the sum of Five Thousand Dollars and No Cents (\$5,000.00) in punitive damages.
3. Respondent Hornblower & Weeks, Inc., is liable for and shall pay to Claimant, Alexander Boardman, pre-award interest in the amount of Four Thousand Dollars (\$4,000) and post award interest at the rate of 8% per annum from the October 21, 2002 until payment is made in full.
4. That to the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto are denied with prejudice.
5. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys fees.

#### FEES

Pursuant to the Code, the following fees will be assessed:

##### Filing Fees

NASD Dispute Resolution will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$ 225

##### 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, the member firm is Hornblower & Weeks, Inc.

Member surcharge	= \$ 1,000
Pre-hearing process fee	= \$ 600
Hearing process fee	= \$ 1,500

##### Adjournment Fees

Adjournments granted during these proceedings:

Hearing Dates – March 5 – 6<sup>th</sup>, 2002;  
Hearing Dates – June 3 – 5<sup>th</sup>, 2002

Adjournments requested by Alexander Boardman – Fees Waived by Panel

= \$ 0

**Forum Fees and Assessments**

The Arbitration 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:

Two (2) Pre-hearing sessions with Panel x \$750 = \$ 1,500

Pre-hearing conferences:

Dates

11/16/2001

1 session

02/26/2002

1 session

One (1) Hearing session x \$750

= \$ 750

Hearing Date:

Date

9/26/2002

1 session

Total Forum Fees

= \$ 2,250

The Arbitration Panel has assessed \$2,250 of the forum fees to Hornblower & Weeks, Inc.

**Fee Summary**

Claimant, Alexander Boardman, shall be and hereby is liable for:

Initial Filing Fee	= \$ 225
Total Fees	= \$ 225
<u>Less payments</u>	= \$ 975
Balance Refund From NASD Dispute Resolution	= \$ 750

Respondent, Hornblower & Weeks, Inc., shall be and hereby is liable for:

Member Fees	= \$ 3,100
<u>Forum Fees</u>	= \$ 2,250
Total Fees	= \$ 5,350
<u>Less payments</u>	= \$ 3,100
Balance Due NASD Dispute Resolution	= \$ 2,250

All balances are due to NASD Dispute Resolution

**ARBITRATION PANEL**

Michael J. Norton - Public Arbitrator, Presiding Chair  
Bradford J. Lam, Esq. - Public Arbitrator  
Edward G. Schrandt - Industry Arbitrator

**Concurring Arbitrators:**

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Michael J. Norton  
Public Arbitrator, Presiding Chair

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Signature Date

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Bradford J. Lam, Esq.  
Public Arbitrator

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Signature Date

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Edward G. Schrandt  
Industry Arbitrator

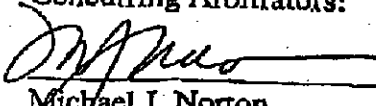
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Signature Date

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Bradford J. Lam, Esq. - Public Arbitrator  
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Concurring Arbitrators:

  
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Public Arbitrator, Presiding Chair

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Edward G. Schrandt  
Industry Arbitrator

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Signature Date

Oct. 15, 2002  
Signature Date

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Signature Date

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Public Arbitrator

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Edward G. Schrandt  
Industry Arbitrator

10/15/02  
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Signature Date