

# **Stipulated Award**

## **NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Craig Roberts IRA, Sharon Roberts IRA, Craig Roberts c/f Ryan Roberts, Craig Roberts c/f Shannon Roberts, Craig Roberts c/f Kyle Roberts, Craig Roberts Pension Account, Craig Roberts, and Long Island Auto Appraisers (Claimants) v. Andover Brokerage, LLC, Richard Michael Hughes, Timothy Martin Hughes, and Michael Picozzi, III (Respondents)

Case Number: 02-02157

Hearing Site: New York, New York

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Nature of the Dispute: Customers v. Member and Associated Persons.

### **REPRESENTATION OF PARTIES**

Claimants Craig Roberts IRA ("C. Roberts IRA"), Sharon Roberts IRA ("S. Roberts IRA"), Craig Roberts c/f Ryan Roberts ("C. Roberts c/f R. Roberts"), Craig Roberts c/f Shannon Roberts ("C. Roberts c/f S. Roberts"), Craig Roberts c/f Kyle Roberts ("C. Roberts c/f K. Roberts"), Craig Roberts Pension Account ("C. Roberts Pension Account"), Craig Roberts ("C. Roberts"), and Long Island Auto Appraisers ("Long Island Auto Appraisers") hereinafter collectively referred to as "Claimants": Gregg Scott Goodman, Esq., Goodman & Goodman, Mount Sinai, NY.

Respondents Andover Brokerage, LLC ("Andover"), Richard Michael Hughes ("R. Hughes"), Timothy Martin Hughes ("T. Hughes"), and Michael Picozzi, III ("M. Picozzi") hereinafter collectively referred to as "Respondents": Mark J. Astarita, Esq., Beam & Astarita, LLC, Bloomfield, NJ.

### **CASE INFORMATION**

Statement of Claim filed on or about: April 12, 2002.

Claimant C. Roberts signed the Uniform Submission Agreement.

Claimant S. Roberts signed the Uniform Submission Agreement.

Claimant C. Roberts c/f R. Roberts signed the Uniform Submission Agreement: April 23, 2002.

Claimant C. Roberts c/f S. Roberts signed the Uniform Submission Agreement: April 23, 2002.

Claimant C. Roberts c/f K. Roberts signed the Uniform Submission Agreement: April 23, 2002.

Claimant C. Roberts Pension Account signed the Uniform Submission Agreement: April 23, 2002.

Claimant Long Island Auto Appraisers signed the Uniform Submission Agreement.

Joint Statement of Answer and Motion to Dismiss M. Picozzi filed by Respondents on or about: August 7, 2002.

Respondent Andover did not sign the Uniform Submission Agreement.

Respondent R. Hughes did not sign the Uniform Submission Agreement.

Respondent T. Hughes did not sign the Uniform Submission Agreement.

Respondent M. Picozzi did not sign the Uniform Submission Agreement.

### **CASE SUMMARY**

Claimants asserted the following causes of action: breach of contract; breach duty; negligence; fraud and deceit; breach of fiduciary duty; violations of federal securities laws, specifically Section 10(b) of the Securities Exchange Act and Rule 10b-5 promulgated thereunder; violations of industry rules; unauthorized trading; churning; violation of Section 349 of the New York General Business Law; failure to supervise; and control person liability. Claimants' claims involved unspecified securities.

Unless specifically admitted in its Answer, Respondents denied the allegations of wrongdoing set forth in the Statement of Claim and asserted various affirmative defenses.

### **RELIEF REQUESTED**

Claimants requested compensatory damages in the amount of \$800,000.00; interest; costs, expenses, and disbursements, including attorneys' fees; punitive damages; and other relief as the Arbitration Panel deems just and proper.

Respondents requested dismissal of the Statement of Claim in its entirety and award Respondents their costs, disbursements, and attorneys' fees, that all forum fees be assessed against the Claimants, as well as such other and further relief as the Panel deems appropriate.

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

Respondent did not file with NASD Dispute Resolution properly executed Uniform Submission Agreements but are required to submit to arbitration pursuant to the Code and, having answered the claim, are bound by the determination of the Panel on all issues submitted.

On or about December 16, 2003, Claimants dismissed their claims against Respondents R. Hughes, T. Hughes, and M. Picozzi, with prejudice.

On or about February 6, 2004, Claimants settled and dismissed their claims against Respondent Andover, with prejudice.

The Panel has been advised that the remaining Respondent Andover and the Claimant have

resolved this matter pursuant to a written settlement agreement, and that all claims against all of the Respondents have now been dismissed and resolved.

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

### **AWARD**

The parties entered into an agreement to present to the Panel a Stipulated Award. Now, in lieu of a hearing and upon motion of both parties for an entry of an award, the written stipulation thereto, the Panel grants the motion and enters this award granting the following relief:

1. Claimants' claims are dismissed in their entirety.
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Richard Hughes' 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 Richard Hughes must obtain confirmation from a court of competent jurisdiction before CRD will execute the expungement directive.
3. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Timothy Hughes' 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 Timothy Hughes must obtain confirmation from a court of competent jurisdiction before CRD will execute the expungement directive.
4. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Michael Picozzi, III'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 Picozzi must obtain confirmation from a court of competent jurisdiction before CRD will execute the expungement directive.
5. Any and all relief not specifically addressed herein, including punitive damages, is denied.

### **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 = \$375.00

### **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. In this matter, Andover Brokerage, LLC is a party.

Member Surcharge	= \$2,250.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	= \$4,000.00
Total Member Fees	= \$7,000.00

### **Adjournment Fees**

The following adjournment fees are assessed:

August 11-15, 2003, joint adjournment request	= \$1,200.00
Claimants' share	= \$600.00
Respondents' share	= \$600.00

### **Forum Fees and Assessments**

The 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. Forum fees associated with these proceedings are:

One (1) Pre-hearing conference session with the Panel @ \$1,200.00/session	= \$1,200.00
<u>Pre-hearing conference: December 5, 2002 1 session</u>	
Total Forum Fees	= \$1,200.00

1. The Panel has assessed \$600.00 of the forum fees jointly and severally against Claimants.
2. The Panel has assessed \$600.00 of the forum fees jointly and severally against Respondents.

### **Fee Summary**

1. Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 375.00
Adjournment Fee	= \$ 600.00
<u>Forum Fees</u>	= \$ 600.00
Total Fees	= \$1,575.00
<u>Less payments</u>	= \$2,775.00
Refund Due Claimants	= \$1,200.00

2. Respondent Andover is solely liable for:

<u>Member Fees</u>	= \$7,000.00
Total Fees	= \$7,000.00
<u>Less payments</u>	= \$7,000.00
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents are jointly and severally liable for:

Adjournment Fee	= \$ 600.00
<u>Forum Fees</u>	= \$ 600.00
Total Fees	= \$1,200.00
<u>Less payments</u>	= \$ 600.00
Balance Due NASD Dispute Resolution	= \$ 600.00

All balances are due and payable to NASD Dispute Resolution.

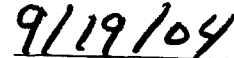
**Parties' Signatures**



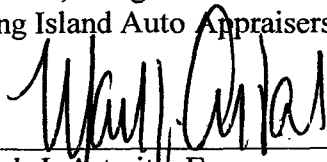
Gregg Scott Goodman, Esq.

Goodman & Goodman

Attorneys for Craig Roberts, Sharon Roberts,  
Craig Roberts c/f Ryan Roberts, Craig Roberts  
c/f Shannon Roberts, Craig Roberts c/f Kyle  
Roberts, Craig Roberts Pension Fund,  
Long Island Auto Appraisers



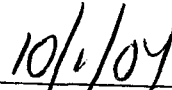
Signature Date



Mark J. Astarita, Esq.

Beam & Astarita, LLC

Attorneys for Andover Brokerage LLC

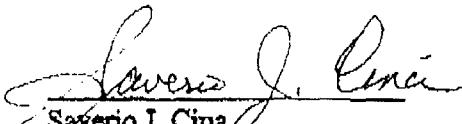


Signature Date

**ARBITRATION PANEL**

Saverio J. Cina	-	Public Arbitrator, Presiding Chair
Krishna M. Vempaty, Esq.	-	Public Arbitrator
Raymond J. Cullen, MBA	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

  
Saverio J. Cina  
Public Arbitrator, Presiding Chair

11/11/04  
Signature Date

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Krishna M. Vempaty, Esq.  
Public Arbitrator

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Signature Date

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Raymond J. Cullen, MBA  
Non-Public Arbitrator

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Signature Date

February 14, 2005  
Date of Service (For NASD office use only)

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Krishna M. Vempaty, Esq.  
Public Arbitrator

*Krishna M. Vempaty*  
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Signature Date 2/8/05

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Raymond J. Cullen, MBA  
Non-Public Arbitrator

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