

**Award
NASD Dispute Resolution**

In the Matter of the Arbitration Between:

Name of the Claimant

John Glasgow

Case Number: 02-02170

Names of the Respondents

Continental Broker-Dealer Corp.

GIT Securities Corporation

Thomas Joseph Heaphy, Jr.

Mark Agres

Michael Bernard Barrett

Christian Levon Nigohossian

Brian Fred Zucker

Hearing Site: Little Rock, Arkansas

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

REPRESENTATION OF PARTIES

For John Glasgow, hereinafter referred to as "Claimant": Drake Mann, Esq., Gill Elrod Ragon Owen and Sherman, P.A. Little Rock, Arkansas.

For Continental Broker-Dealer Corp. ("CBD"): Gary P. Barkett, Esq., Gary P. Barket, P.A., Little Rock, Arkansas.

For GIT Securities Corporation ("GIT"): Mark Agres, GIT Securities Corporation, New Rochelle, New York.

Mark Agres ("Agres") appeared pro se.

Thomas Joseph Heaphy, Jr. ("Heaphy") appeared pro se.

Michael Bernard Barrett ("Barrett") did not appear.

Christian Levon Nigohossian ("Nigohossian") did not appear.

Brian Fred Zucker ("Zucker") appeared pro se.

CASE INFORMATION

Statement of Claim filed on or about: April 15, 2002.

Claimant Glasgow signed the Uniform Submission Agreement: April 12, 2002.

Amended and Supplemented Statement of Claim filed on or about: March 31, 2003.

Answer to the Statement of Claim filed by CBD on or about: June 11, 2002.

Answer of Respondent GIT filed on or about: June 11, 2002.

Respondent CBD signed the Uniform Submission Agreement: June 12, 2002.

Respondent Heaphy's Reply to the Statement of Claim filed on or about: December 10, 2002.

Motion to Sever filed by Respondent CBD on or about: December 12, 2002.

Claimant's Response to Motion to Sever filed on or about: January 3, 2003.

Respondent CBD's Sur Reply to Claimant's Response to the Motion to Sever filed on or about: January 10, 2003.

Request to Amend Statement of Claim filed on or about: March 28, 2003.

Response of CBD to Claimant's Proposed Amended and Supplemented Statement of Claim, Motion to Dismiss and Motion to Sever filed on or about: April 15, 2003.

Claimant's Reply to Response to Proposed Amended and Supplemented Statement of Claim and Response to Motion to Dismiss and Motion to Sever filed on or about: May 21, 2003.

Rebuttal of Respondent CBD to Claimant's Reply to Motion to Dismiss and Motion to Sever filed on or about: May 29, 2003.

CASE SUMMARY

Claimant asserted the following causes of action: misrepresentations; omissions; suitability; churning; unauthorized transactions and fraud. The causes of action relate Claimant's investments in, including but not limited to, Vivus, Inc.

Unless specifically admitted in their Answers, Respondent CBD, GIT and Heaphy denied the allegations made in the Statement of Claim, as amended, and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested: 1) compensatory damages in the amount of \$187,185.69; 2) punitive damages in the amount of \$374,371.41; 3) costs in the amount of \$1,575.00; 4) pre-judgment interest; 5) attorneys' fees; and 6) interest and costs in the original Statement of Claim.

Respondent CBD requested: 1) the Statement of Claim be dismissed; and, 2) that all disbursements and costs be assessed against Claimant.

Respondent GIT requested that: 1) the Statement of Claim be dismissed in its entirety; and, 2) such other and further relief be granted.

Respondent Heaphy requested: 1) that the Statement of Claim be dismissed in its entirety; and, 2) such other and further relief be granted.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents Agres, Barrett, Nigohossian, and Zucker did not file with NASD Dispute Resolution properly executed Uniform Submission Agreements but are required to submit to arbitration pursuant to the Code and are bound by the determination of the Panel on all issues submitted.

Respondent GIT did not file with NASD Dispute Resolution a properly executed Uniform

Submission Agreement but is required to submit to arbitration pursuant to the Code and, having answered, is bound by the determination of the Panel on all issues submitted.

Respondent Heaphy did not file with NASD Dispute Resolution a properly executed Uniform Submission Agreement but is required to submit to arbitration pursuant to the Code and, having answered, appeared and testified, is bound by the determination of the Panel on all issues submitted.

On January 23, 2003, the Panel denied Respondent CBD's Motion to Sever dated December 12, 2002.

On or about August 11, 2003 the Panel issued an order granting the Motion to Amend the Statement of Claim and denying the Motion to Dismiss and the Motion to Sever.

Respondent CBD was dismissed with prejudice by Claimant on or about August 19, 2003.

Respondent Zucker was dismissed with prejudice by Claimant on or about: November 21, 2003.

During the evidentiary hearing, Claimant dismissed with prejudice Respondents Agres and GIT.

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:

Service was not perfected upon Respondents Barrett and Nigohossain and all claims against them are dismissed without prejudice.

Respondent Heaphy is found liable under the claim of unsuitability and shall pay to Claimant compensatory damages in the amount of \$134,000.00, plus pre-judgment interest as provided by Arkansas law in the amount of \$40,200.00, for a total monetary award of \$174,200.00. Additionally, Respondent Heaphy shall pay post-judgment interest at the rate of 10% per annum until the award is paid.

Claimant's requests for attorneys' fees and punitive damages are denied.

Any and all claims not specifically addressed herein 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 = \$ 375.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, GIT and CBD are parties and were member firms at the time of the events giving rise to the dispute.

Member surcharge	= \$2,250.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$4,000.00
Total Member fees	= \$7,000.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

There were no adjournment fees assessed during the proceedings.

Three-Day Cancellation Fees

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session:

The Panel assessed the \$300.00 three-day cancellation fee to Respondent Heaphy for the February 13 – 14, 2006 adjournment request.

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.

There were no injunctive relief fees assessed during the proceedings.

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted or each decision rendered on a discovery-related motion on the papers. A 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 @ \$1,200.00	= \$1,200.00
Pre-hearing conference: November 8, 2002 1 session	

Three (3) Hearing sessions @ \$1,200.00	= \$ 3,600.00
Hearing Dates: January 28, 2003 1 session	

November 7, 2006 2 sessions

Total Forum Fees	= \$ 4,800.00
------------------	---------------

The Panel has assessed \$4,800.00 of the forum fees to Respondent Heaphy.

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.

There were no administrative costs assessed during the proceedings.

Fee Summary

Claimant Glasgow is solely liable for:

<u>Initial Filing Fee</u>	= \$ 375.00
<u>Total Fees</u>	= \$ 375.00
<u>Less payments</u>	= \$ 375.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 0.00

Respondent CBD is solely liable for:

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

Respondent GIT is solely liable for:

<u>Member Fees</u>	= \$7,000.00
<u>Total Fees</u>	= \$7,000.00
<u>Less payments</u>	= \$3,000.00
<u>Balance Due NASD Dispute Resolution</u>	= \$4,000.00

Respondent Heaphy is solely liable for:

<u>Forum Fees</u>	= \$4,800.00
<u>Three-Day Cancellation Fee</u>	= \$ 300.00
<u>Total Fees</u>	= \$5,100.00
<u>Less payments</u>	= \$ 0.00
<u>Balance Due NASD Dispute Resolution</u>	= \$5,100.00

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

ARBITRATION PANEL

Michael Richards, Esq.
Sam T. Heuer, Esq.
Donna J. Young

Public Arbitrator, Presiding Chairperson
Public Arbitrator
Non-Public Arbitrator

Concurring Arbitrators' Signature(s)

/s/
Michael Richards, Esq.
Public Arbitrator, Presiding Chairperson

November 10, 2006
Signature Date

/s/
Sam T. Heuer, Esq.
Public Arbitrator

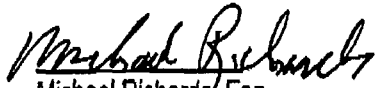
November 9, 2006
Signature Date

/s/
Donna J. Young
Non-Public Arbitrator

November 9, 2006
Signature Date

November 10, 2006
Date of Service (For NASD Dispute Resolution use only)

Concurring Arbitrators' Signature(s)



Michael Richards, Esq.
Public Arbitrator, Presiding Chairperson

11/10/06

Signature Date

Sam T. Heuer, Esq.
Public Arbitrator

Signature Date

Donna J. Young
Non-Public Arbitrator

Signature Date

Date of Service (For NASD Dispute Resolution use only)

Fax from :

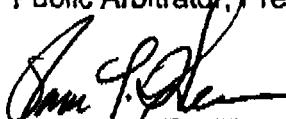
Arbitration No. 02-02170

Award Page 6 of 6

Concurring Arbitrators' Signature(s)

Michael Richards, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date



Sam T. Heuer, Esq.
Public Arbitrator

11-9-06

Signature Date

Donna J. Young
Non-Public Arbitrator

Signature Date

Date of Service (For NASD Dispute Resolution use only)

Nov. 9, 2006 4:36PM
NASD Dispute Resolution
Arbitration No. 02-02170
Award Page 6 of 6

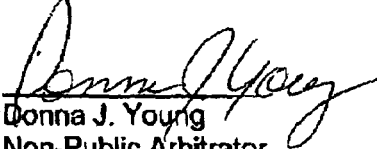
Concurring Arbitrators' Signature(s)

Michael Richards, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Sam T. Heuer, Esq.
Public Arbitrator

Signature Date


Donna J. Young
Non-Public Arbitrator

11-9-06
Signature Date

Date of Service (For NASD Dispute Resolution use only)