

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Bobby Scott

Case Number: 02-05148

Names of the Respondents
Gaines Berland Inc. n/k/a
Ladenburg Capital Management, Inc.
Joseph Michael Angelone, Jr.
Vincent Antonio Mangone
Mark David Zeitchick
Michael Andrew Chakos
Ladenburg Thalmann and Co., Inc.

Hearing Site: Atlanta, Georgia

REPRESENTATION OF PARTIES

For Bobby Scott, hereinafter referred to as "Claimant": Michael Huberman, Esq. and Seth L. Huberman, Esq., Huberman & Associates, La Quinta, California.

For Gaines Berland Inc. n/k/a Ladenburg Capital Management, Inc. ("Gaines"), Joseph Michael Angelone, Jr. ("Angelone"), Vincent Antonio Mangone ("Mangone"), Mark David Zeitchick ("Zeitchick"), Michael Andrew Chakos ("Chakos") and Ladenburg Thalmann and Co., Inc. ("Ladenburg"), hereinafter collectively referred to as "Respondents": Mark J. Astarita, Esq. and D. Christopher Walker, Esq., Beam & Astarita, Bloomfield, New Jersey.

CASE INFORMATION

Statement of Claim filed on or about: August 27, 2002.

Amendment No. 1 to Statement of Claim filed on or about: November 5, 2002.

Amendment No. 2 to Statement of Claim filed on or about: January 20, 2003.

Claimant's opposition to Respondents' Motion to Dismiss Ladenburg filed on or about: January 3, 2003.

Claimant signed the Uniform Submission Agreement.

Statement of Answer and Motion to Dismiss the individual Respondents filed by Respondents Gaines, Angelone, Mangone, Zeitchick and Chakos on or about: November 4, 2002.

Statement of Answer and Motion to Dismiss filed by Respondent Ladenburg on or about: December 4, 2002.

Respondents Mangone, Angelone, Zeitchick, Chakos and Gaines signed the Uniform Submission Agreements: November 5, 2002.

Respondent Ladenburg did not file an executed Uniform Submission Agreement.

Claimant's submission regarding the authority to award attorneys' fees filed on or about: September 29, 2003.

Respondents' brief on assessing attorneys' fees filed on or about: September 29, 2003.

CASE SUMMARY

Claimant asserted the following causes of action: breach of fiduciary duty; negligence; excessive trading; failure to supervise and control; and, violation of federal and state securities laws, NASD Rules of Fair Practice and NYSE rules. The causes of action relate to the purchase and sale of various shares in Claimant's account, including but not limited to: Splitrock Services, Inc., Cisco, Merck, Coca-Cola, Wells Fargo, Compaq, Earthlink, Dollar General, Putnam Asia Pacific Growth Fund, Oracle Corp., Applied Theory, Inc., Veritas Software Corp., EMC Corp., Comverse Technology, Inc., Network Appliance, Inc., Abercrombie, US Search, Citrix, Texas Instruments, Adtran, Home Depot, ADC Telecommunications, Inc., Siebel Systems, Waddell and Reed, Inc., NRG Energy Corp., Brocade Corp., PMC-Sierra Semiconductor Corp., Juniper Networks, Inc. and Mercury Interactive Corp.

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

RELIEF REQUESTED

At the hearing, Claimant requested compensatory damages of \$1,078,606.90; punitive damages of \$3,235,820.70; costs and expenses of \$15,000.00; interest at the rate of 6% per annum from 9/15/02-10/15/03 of \$70,281.60; attorneys' fees of \$359,535.63; and, such other and further relief as the panel deemed just and appropriate.

Respondents requested that the Statement of Claim be dismissed in its entirety and that they be awarded costs and attorneys' fees, together with such other and further relief as the Panel deemed just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

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

On or about February 17, 2003, the arbitration panel issued an order which denied Respondents' motion to dismiss the individual Respondents.

During the evidentiary hearing, Respondents reasserted their previously filed motions to dismiss. The arbitration panel denied said motions.

The parties have agreed that the Award in this matter may be executed in counterpart copies.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), the undersigned arbitrators (the "Panel") have decided in full and final resolution of the issues submitted for determination as follows:

Respondents are liable, jointly and severally, and shall pay to Claimant the sum of \$735,961.80 representing margin interest and commissions plus interest at the rate of 6% per annum from August 27, 2002 until the date of payment of the Award.

Respondents are liable, jointly and severally, and shall pay to Claimant the sum of \$15,000.00 representing reimbursement of Claimant's expert witness fees and costs.

Respondents are liable, jointly and severally, and shall pay to Claimant the sum of \$359,535.63 in attorneys' fees pursuant to the Alabama Code Section 8-6-19.

Any and all claims for relief not specifically addressed herein, including Claimant's request for punitive damages, are 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 = \$500.00

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. In this matter, the member firms Gaines and Ladenburg are parties.

Member surcharge	= \$2,800.00
Pre-hearing process fee	= \$750.00
Hearing process fee	= \$5,000.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

No requests for adjournments for which fees were assessed were granted in this matter.

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.

No injunctive relief fees were incurred in this matter.

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. 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 Pre-hearing session with an arbitrator @ \$450.00	= \$450.00
Pre-hearing conference: September 4, 2003	1 session
One Pre-hearing session with the Panel @ \$1,200.00	= \$1,200.00
Pre-hearing conference: March 4, 2003	1 session
Nine Hearing sessions @ \$1,200.00	= \$10,800.00
Hearing Dates: September 15, 2003	1 session
September 16, 2003	2 sessions
September 17, 2003	2 sessions
September 18, 2003	3 sessions
September 19, 2003	1 session
Total Forum Fees	= \$12,450.00

The Panel has assessed \$6,225.00 of the forum fees to Claimant.

The Panel has assessed \$6,225.00 of the forum fees jointly and severally to Respondents.

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 are 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 in this matter.

FEE SUMMARY

Claimant is solely liable for:

Initial Filing Fee	= \$500.00
Forum Fees	= \$6,225.00
Total Fees	= \$6,725.00
Less payments	= \$5,300.00
Balance Due NASD Dispute Resolution	= \$1,425.00

Respondent Gaines is solely liable for:

Member Fees	= \$8,550.00
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Total Fees	= \$8,550.00
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Less payments	= \$8,550.00
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Balance Due NASD Dispute Resolution	= \$0.00
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Respondent Ladenburg is solely liable for:

Member Fees	= \$8,550.00
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Total Fees	= \$8,550.00
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Less payments	= \$0.00
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Balance Due NASD Dispute Resolution	= \$8,550.00
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Respondents are jointly and severally liable for:

Forum Fees	= \$6,225.00
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Total Fees	= \$6,225.00
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Less payments	= \$3,600.00
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Balance Due NASD Dispute Resolution	= \$2,625.00
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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

Kelly Jean Beard, J.D.	-	Public Arbitrator, Presiding Chair
James H. McAvoy, Sr.	-	Public Arbitrator
Merle I. Hoch	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

_____/S/_____
Kelly Jean Beard, J.D.
Public Arbitrator, Presiding Chair

Signature Date

_____/S/_____
James H. McAvoy, Sr.
Public Arbitrator

Signature Date

/S/
Merle I. Hoch
Non-Public Arbitrator

Signature Date

October 15, 2003
Date of Service (For NASD Dispute Resolution office use only)

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Total Fees

Less payments

= \$8,550.00

= \$8,550.00

Balance Due NASD Dispute Resolution

= \$0.00

Respondent Ladenburg is solely liable for:

Member Fees

= \$8,550.00

Total Fees

Less payments

= \$8,550.00

= \$0.00

Balance Due NASD Dispute Resolution

= \$8,550.00

Respondents are jointly and severally liable for:

Forum Fees

= \$6,225.00

Total Fees

Less payments

= \$6,225.00

= \$3,600.00

Balance Due NASD Dispute Resolution

= \$2,625.00

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

ARBITRATION PANEL

Kelly Jean Beard, J.D.

James H. McAvoy, Sr.

Merle I. Hoch

Public Arbitrator, Presiding Chair

Public Arbitrator

Non-Public Arbitrator

Concurring Arbitrators' Signatures

Kelly Jean Beard, J.D.

Public Arbitrator, Presiding Chair

10.10.03

Signature Date

James H. McAvoy, Sr.

Public Arbitrator

Signature Date

Total Fees	= \$8,550.00
Less payments	= \$8,550.00

Balance Due NASD Dispute Resolution	= \$0.00
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Respondent Ladenburg is solely liable for:

Member Fees	= \$8,550.00
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Total Fees	= \$8,550.00
Less payments	= \$0.00

Balance Due NASD Dispute Resolution	= \$8,550.00
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Respondents are jointly and severally liable for:

Forum Fees	= \$6,225.00
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Total Fees	= \$6,225.00
Less payments	= \$3,600.00

Balance Due NASD Dispute Resolution	= \$2,625.00
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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.

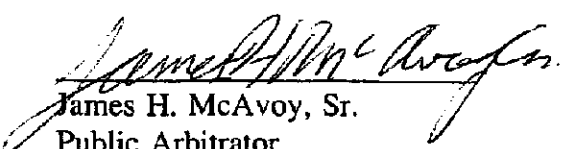
ARBITRATION PANEL

Kelly Jean Beard, J.D.	-	Public Arbitrator, Presiding Chair
James H. McAvoy, Sr.	-	Public Arbitrator
Merle I. Hoch	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Kelly Jean Beard, J.D.
Public Arbitrator, Presiding Chair

Signature Date



James H. McAvoy, Sr.
Public Arbitrator

Signature Date

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Merle I. Hoch

Merle I. Hoch
Non-Public Arbitrator

10/7/03

Signature Date

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