

**STIPULATED AWARD
NASD Dispute Resolution**

In the Matter of the Arbitration Between

Claimants

Joseph F. Novogratz and Insulation Distributors, Inc.

v.

02-06183

Minneapolis, Minnesota

Respondents

Miller Steichen Kinnard, Inc.,

Aaron Michael Howe and Andrew John O'Connell

Nature of Dispute: Customers v. Member and Associated Persons

REPRESENTATION OF PARTIES

Joseph F. Novogratz and Insulation Distributors, Inc. ("**Claimants**") were represented by Mark J. Briol, Esq., and Joseph M. Musilik, Esq., of Briol & Associates, P.L.L.P., Minneapolis, Minnesota.

Miller Steichen Kinnard, Inc. ("**Miller Steichen Kinnard**"), Aaron Michael Howe ("**Howe**"), Andrew John O'Connell ("**O'Connell**"), hereinafter referred to as ("**Respondents**"), were represented by Joseph W. Anthony, Esq., and Karlyn Vegoe Boraas, Esq., of Anthony Ostlund & Baer, P.A., Minneapolis, Minnesota

CASE INFORMATION

The Statement of Claim was filed on or about October 11, 2002. Submission Agreements of Claimants were signed on or about June 17, 2002.

A Joint Statement of Answer was filed by Respondents Miller Steichen Kinnard, Inc., Aaron Michael Howe and Andrew John O'Connell on or about December 11, 2002. Submission Agreement of Respondent Miller Steichen Kinnard, Inc. was signed on or about December 5, 2002. Submission Agreement of Respondent Aaron Michael Howe was signed on or about October 30, 2002. Submission Agreement of Respondent Andrew John O'Connell was signed on or about October 31, 2002.

CASE SUMMARY

Claimants asserted causes of action including the following: negligence, breach of fiduciary duty, common law fraud, and failure to supervise. The causes of action related to Claimants' allegation that Respondents improperly invested their holdings in various high-risk and telecommunication stocks and did not diversify their portfolio or implement loss-limit protectors. Claimants also alleged

that Respondents their investment decisions in their accounts solely in order to maximize commissions while churning Claimants' accounts.

Respondents denied the allegations set forth in the Statement of Claim and asserted defenses including the following: Claimants failed to state a claim upon which relief can be granted; any losses sustained by Claimants were proximately caused by Claimants' expressed and implied agreements to voluntarily and knowingly assume the risk of losses in their accounts; Claimants expressly approved and ratified the acts and transactions complained of and upon which recovery is sought and are thus precluded from any recovery under the doctrines of ratification and waiver; and Claimants' alleged losses, if any, were proximately caused by Claimants' own conduct and negligence or contributory negligence, including Claimants' own decisions to buy, hold, sell and re-purchase securities, and to invest on margin, which preclude Claimants from recovering anything from Respondents.

RELIEF REQUESTED

Claimants requested an award in the amount of \$1,250,000 in compensatory damages, plus interest, attorney's fees, punitive damages, costs, and any other relief that the Panel deemed just and equitable.

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded their costs and attorneys' fees. In addition, Respondents requested that this matter be expunged from Respondents Howe and O'Connell's permanent registration records maintained by the Central Registration Depository ("CRD").

OTHER ISSUES CONSIDERED & DECIDED

Claimants, Joseph F. Novogratz and Insulation Distributors, Inc., and Respondents, Miller Steichen Kinnard, Inc., Aaron Michael Howe, and Andrew John O'Connell have entered in to a confidential settlement agreement and wish for a stipulated award to be entered.

The parties have agreed that the Stipulated 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 and the parties' submissions and representations, but without making any findings of fact or conclusions of law, the undersigned arbitrators orders as follows:

1. Claimants' claims, each and all, are hereby dismissed with prejudice;

2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondents Aaron Michael Howe's and Andrew John O'Connell'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 Aaron Michael Howe and Andrew John O'Connell must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive;
3. To the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto, including punitive damages, are denied with prejudice; and
4. 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 are assessed:

Filing Fees

NASD Dispute Resolution will retain the non-refundable filing fee for each claim:

Initial claim filing fee	= \$ 500
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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 Miller Steichen Kinnard, Inc.

Member surcharge	= \$ 2,800
Pre-hearing process fee	= \$ 750
Hearing process fee	= \$ 5,000

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 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 \$ 1,200 = \$ 1,200

Pre-hearing conference: 04/30/2003 1 session

Total Forum Fees = \$ 1,200

The Arbitration Panel has assessed \$ 600 of the forum fees jointly and severally to Joseph F. Novogratz and Insulation Distributors, Inc.

The Arbitration Panel has assessed \$ 600 of the forum fees jointly and severally to Miller Steichen Kinnard, Inc., Aaron Michael Howe, and Andrew John O'Connell.

Fee Summary

Claimants, Joseph F. Novogratz and Insulation Distributors, Inc., are jointly and severally liable for:

Initial Filing Fee	= \$ 500
<u>Forum Fees</u>	= \$ 600
Total Fees	= \$ 1,100
<u>Less payments</u>	= \$ 1,700
Balance Refunded By NASD Dispute Resolution	= \$ 600

Respondent, Miller Steichen Kinnard, Inc., is liable for:

<u>Member Fees</u>	= \$ 8,550
Total Fees	= \$ 8,550
<u>Less payments</u>	= \$ 8,550
Balance Due NASD Dispute Resolution	= \$ 0

Respondents, Miller Steichen Kinnard, Inc., Aaron Michael Howe, and Andrew John O'Connell are jointly and severally liable for:

<u>Forum Fees</u>	= \$ 600
Total Fees	= \$ 600
<u>Less payments</u>	= \$ 0
Balance Due NASD Dispute Resolution	= \$ 600

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

ARBITRATION PANEL

Andrew R. Dick, Esq. - Public Arbitrator, Presiding Chair
D. Randall Blohm, Esq. - Public Arbitrator
Rolf V. Aronsen, Esq.- Non-Public Arbitrator

Concurring Arbitrators:

Andrew R. Dick, Esq.
Public Arbitrator, Presiding Chair

Signature Date

D. Randall Blohm, Esq.
Public Arbitrator

Signature Date

Rolf V. Aronsen, Esq.
Non-Public Arbitrator

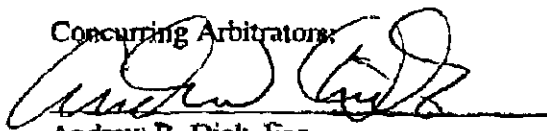
Signature Date

4/15/04
Date of Service (NASD use only)

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Concurring Arbitrators:



Andrew R. Dick, Esq.
Public Arbitrator, Presiding Chair

4/14/04

Signature Date

D. Randall Blohm, Esq.
Public Arbitrator

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Rolf V. Aronsen, Esq.
Non-Public Arbitrator

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Concurring Arbitrators:

Andrew R. Dick, Esq.
Public Arbitrator, Presiding Chair

Signature Date

D. Randall Blohm

D. Randall Blohm, Esq.
Public Arbitrator

4-06-05

Signature Date

Rolf V. Aronsen, Esq.
Non-Public Arbitrator

Signature Date

4/15/04

Date of Service (NASD use only)

ARBITRATION PANEL

Andrew R. Dick, Esq. - Public Arbitrator, Presiding Chair
D. Randall Blohm, Esq. - Public Arbitrator
Rolf V. Aronsen, Esq. - Non-Public Arbitrator

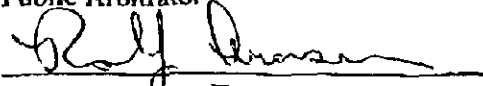
Concurring Arbitrators:

Andrew R. Dick, Esq.
Public Arbitrator, Presiding Chair

Signature Date

D. Randall Blohm, Esq.
Public Arbitrator

Signature Date



Rolf V. Aronsen, Esq.
Non-Public Arbitrator

4-12-04

Signature Date

4/15/04

Date of Service (NASD use only)