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**Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Name of the Claimant  
Michael F. Siegel

Case Number: 02-06279

Names of the Respondents  
Hunt and Linda Downer  
Patrick and Dorothy Landry

Hearing Site: New Orleans, LA

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Nature of the Dispute: Associated Person v. Customer.

**REPRESENTATION OF PARTIES**

For Michael F. Siegel, hereinafter referred to as "Claimant": George C. Freeman, Esq., Barrasso Usdin Kupperman Freeman & Sarver, L.L.C., New Orleans, LA.

For Hunt and Linda Downer and Patrick and Dorothy Landry, hereinafter collectively referred to as "Respondents": Joseph L. Waitz, Esq., Waitz & Downer, Houma, LA.

**CASE INFORMATION**

Statement of Claim filed on or about: October 18, 2002.

Claimant signed the Uniform Submission Agreement: December 19, 2002.

Statement of Answer filed by Respondents on or about: January 9, 2003.

Amended Statement of Answer and Counterclaim filed by Respondents on or about: October 13, 2003.

Respondents did not file executed Uniform Submission Agreements.

Motion to Dismiss Arbitration or, Alternatively, Motion to Dismiss Defenses, and for Costs, Expenses and Attorneys' Fees ("First Motion to Dismiss") filed by Respondents on or about: March 11, 2003.

Motion to Stay Arbitration Until the Complaint Filed by the Department of Enforcement of NASD Against Michael F. Siegel is Concluded, With Mover Bound by the Decision of Said Disciplinary Board ("Motion to Stay") filed by Respondents on or about: March 13, 2003.

Claimant's Opposition to the First Motion to Dismiss and the Motion to Stay filed on or about: March 18, 2003.

Motion to Dismiss and/or Remand to Federal Court for Clarification ("Second Motion to Dismiss") filed by Respondents on or about: June 3, 2003.

Opposition to the Second Motion to Dismiss filed by Claimant on or about: July 11, 2003.

Supplemental Motion in Support of the Pending Motion to Dismiss and Grant a Judgment in Favor of the Downers and Landrys and for Attorney Fees; and Additionally, This Motion is to Add George C. Freeman, III and/or Meredith A. Cunningham to A Potential Witness List or Agree to a Stipulation filed by Respondents on or about: July 21, 2003.

Argument in Support of Respondents' Second Motion to Dismiss filed by Respondents on or about: November 5, 2003.

Motion to Sanction Michael F. Siegel ("Motion to Sanction") filed by Respondents on or about:

July 16, 2003.

Motion for Reconsideration and/or Rehearing of Order of January 2, 2004 ("First Motion for Reconsideration") filed by Respondents on or about: January 12, 2004.

Claimant's Opposition to the First Motion for Reconsideration filed on or about: January 13, 2004.

Motion for Rehearing, New Trial or Reconsideration of the Final Order ("Motion for Rehearing") filed by Respondents on or about: August 10, 2004.

Supplemental Memorandum in Support of the Motion for Rehearing filed by Respondents on or about: August 11, 2004.

Claimant's Response to the Motion for Rehearing filed on or about: August 18, 2004.

Rebuttal Memorandum on Behalf of Respondents to Claimant's Objection to Respondents' Motion for Rehearing filed on or about: August 19, 2004.

Motion to Require Written Reasons and, Alternatively Reconsideration ("Second Motion for Reconsideration") filed by Respondents on or about: September 17, 2004.

Claimant's Response to the Second Motion for Reconsideration filed on or about: October 1, 2004.

Respondents' Reply in Support of the Second Motion for Reconsideration filed on or about: October 4, 2004.

### **CASE SUMMARY**

Claimant seeks a judgment declaring that Claimant is not liable to the Respondents for the losses they sustained or, alternatively, that the claims Respondents have brought against Claimant in Louisiana state and federal court are barred because: the investments were suitable; Claimant made no misrepresentations to Respondents; Respondents made the decision to invest; Respondents failed to state a cause of action under federal and state securities laws; prescription; and, failure to mitigate. The causes of action relate to Respondents' investments in World Environmental Technologies.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim. In their Counterclaim, Respondents asserted Claimant breached his fiduciary duty and made misrepresentations to the Respondents in connection with the purchase of World Environmental Technologies stock and debentures.

### **RELIEF REQUESTED**

Claimant requested a finding that either he is not responsible for the losses sustained by Respondents or, alternatively, that their claims against him are barred by applicable statutes of limitation, attorneys' fees, and costs.

Respondents requested compensatory damages of \$400,300.00, interest, costs, punitive damages, and attorneys' fees.

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

On or about April 1, 2003, the undersigned arbitrators (the "Panel") issued an order which denied Respondents' First Motion to Dismiss and Motion to Stay.

On or about November 21, 2003, the Panel issued an order which denied Respondents' Second Motion to Dismiss.

On or about February 2, 2004, the Panel issued an order which denied Respondents' First Motion for Reconsideration.

During the evidentiary hearing, Claimant made an ore tenus motion to dismiss based on statutes of limitations grounds (Claimant's Motion to Dismiss"). Respondents opposed the motion. On or about August 6, 2004, the Panel issued an order which granted Claimant's Motion to Dismiss.

On or about September 13, 2004, the Panel issued an order which denied Respondents' Motion for Rehearing.

On or about November 9, 2004, the Panel issued an order which denied Respondents' Second Motion for Reconsideration.

Respondents did not file with NASD Dispute Resolution properly executed Uniform Submission Agreements but are required to submit to arbitration pursuant to the Order and Reasons entered by the United States District Court for the Eastern District of Louisiana.

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**

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

The Panel finds insufficient evidence to extend the time period for the calculation of the applicable Statute of Limitations pursuant to allegations of fraud or intent to deceive, and finds no basis for Respondents' assertions that the date to begin the applicable time period occurred in August, 2002. Based on the evidence presented during the evidentiary hearings held in this matter, the briefs of counsel, and the arguments at the August 4, 2004, hearing, the Panel is unanimous in its decision that the claims of Hunt and Linda Downer, and the claims of Patrick and Dorothy Landry, were not timely filed and are barred by the statute of limitations.

Respondents' Counterclaim is dismissed, with prejudice.

Any and all claims for relief 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 = \$ 250.00

Counterclaim filing fee = \$ 300.00

**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, RBC Dain Rauscher, Inc. is the member firm which employed Claimant at the time of the events giving rise to the dispute.

Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$2,200.00</u>
Total Member Fees	= \$4,450.00

**Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

No requests for adjournments were granted during these proceedings for which fees were assessed.

**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:

No hearing on the merits was postponed or settled within three business days before the start of a scheduled hearing session.

**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 assessed during these proceedings.

**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:

Two (2) Pre-hearing sessions with a single arbitrator @ \$450.00 = \$ 900.00

Pre-hearing conferences:	September 18, 2003	1 session
	October 14, 2003	1 session

Four (4) Pre-hearing sessions with the Panel @ \$1,125.00 = \$ 4,500.00

Pre-hearing conferences:	August 6, 2003	1 session
	October 24, 2003	1 session
	June 4, 2004	1 session
	August 4, 2004	1 session

Nine (9) Hearing sessions @ \$1,125.00 = \$10,125.00

Hearing Dates:	April 12, 2004	2 sessions
	April 13, 2004	2 sessions
	April 14, 2004	2 sessions
	April 15, 2004	2 sessions
	April 16, 2004	1 session

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Total Forum Fees = \$15,525.00

The Panel has assessed \$7,762.50 of the forum fees to Claimant.

The Panel has assessed \$3,881.25 of the forum fees jointly and severally to Respondents Hunt and Linda Downer.

The Panel has assessed \$3,881.25 of the forum fees jointly and severally to Respondents Patrick and Dorothy Landry.

#### 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.

No administrative costs were incurred during this proceeding.

#### Fee Summary

Claimant is solely liable for:

Initial Filing Fee	= \$ 250.00
Forum Fees	= \$ 7,762.50
Total Fees	= \$ 8,012.50
Less payments	= \$ 1,425.00
Balance Due NASD Dispute Resolution	= \$ 6,587.50

Respondents are jointly and severally liable for:

Counterclaim Filing Fee	= \$ 300.00
Total Fees	= \$ 300.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 300.00

Respondents Hunt and Linda Downer are jointly and severally liable for:

Forum Fees	= \$ 3,881.25
Total Fees	= \$ 3,881.25
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 3,881.25

Respondents Patrick and Dorothy Landry are jointly and severally liable for:

Forum Fees	= \$ 3,881.25
Total Fees	= \$ 3,881.25
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 3,881.25

RBC Dain Rauscher, Inc. is solely liable for:

<u>Member Fees</u>	= \$ 4,450.00
<u>Total Fees</u>	= \$ 4,450.00
<u>Less payments</u>	= \$ 4,450.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 0.00

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

**ARBITRATION PANEL**

Mark A. Myers, Esq.	-	Public Arbitrator, Presiding Chairperson
Herman Brasseaux	-	Public Arbitrator
Lee F. Murphy, Esq.	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

/s/  
Mark A. Myers, Esq.  
Public Arbitrator, Presiding Chairperson

                      
Signature Date

/s/  
Herman Brasseaux  
Public Arbitrator

                      
Signature Date

/s/  
Lee F. Murphy, Esq.  
Non-Public Arbitrator

                      
Signature Date

November 16, 2004  
Date of Service (For NASD Dispute Resolution office use only)

**NASD Dispute Resolution**  
**Arbitration No. 02-06279**  
**Award Page 6 of 6**

RBC Dain Rauscher, Inc. is solely liable for:

<u>Member Fees</u>	= \$ 4,450.00
<u>Total Fees</u>	= \$ 4,450.00
<u>Less payments</u>	= \$ 4,450.00
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Herman Brasseaux	-	Public Arbitrator
Lee F. Murphy, Esq.	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

  
Mark A. Myers, Esq.  
Public Arbitrator, Presiding Chairperson

11-15-04  
Signature Date

Herman Brasseaux  
Public Arbitrator

Signature Date

Lee F. Murphy, Esq.  
Non-Public Arbitrator

Signature Date

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

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NASD Dispute Resolution

Arbitration No. 02-06279

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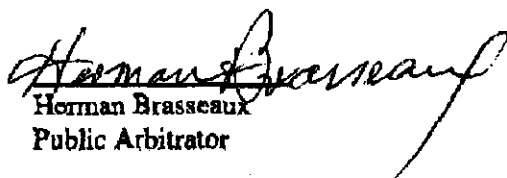
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NASD Dispute Resolution

Arbitration No. 02-06279

Award Page 6 of 6

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Herman Brasseaux	-	Public Arbitrator
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Public Arbitrator, Presiding Chairperson

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Signature Date

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Herman Brasseaux  
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