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

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In the Matter of the Arbitration Between:

Name of the Claimant  
Gerald M. DeBono

Case Number: 02-07678

Names of the Respondents  
Mutual Service Corporation  
Dennis David Nelson  
Dawn Perniciaro Litchfield

Hearing Site: Tampa, Florida

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

**REPRESENTATION OF PARTIES**

For Gerald M. DeBono, hereinafter referred to as Claimant: Christopher T. Vernon, Esq. and Benjamin Iseman, Esq., Treiser, Collins & Vernon, Naples, Florida.

For Mutual Service Corporation ("MSC"), Dennis David Nelson ("Nelson"), and Dawn Perniciaro Litchfield ("Litchfield"), hereinafter collectively referred to as "Respondents": Peter B. King, Esq. and Michael S. Lamont, Esq., Fowler White Boggs Banker, P.A., Tampa, Florida.

**CASE INFORMATION**

Statement of Claim filed on or about: December 18, 2002.  
Claimant signed the Uniform Submission Agreement: December 12, 2002.  
Statement of Answer filed by Respondents on or about: March 20, 2003.  
Respondent MSC signed the Uniform Submission Agreement: January 6, 2003.  
Respondent Litchfield signed the Uniform Submission Agreement: February 6, 2003.  
Respondent Nelson signed, but did not date, the Uniform Submission Agreement.

**CASE SUMMARY**

Claimant asserted the following causes of action against Respondents: violations of the Florida Securities and Investor Protection Act; breach of fiduciary duty; negligent or reckless inducement; unsuitable trading; negligence; and negligent and reckless supervision by Respondent MSC with respect to Respondents Nelson and Litchfield. The causes of action relate to the purchase and sale in Claimant's account of the following: various unspecified technology stocks and mutual funds; penny stocks, including but not limited to, Magna Lab, Inc.; and technology sector options.

Unless specifically admitted in their Answer, Respondents denied the allegations of wrongdoing contained in the Statement of Claim and asserted various defenses.

### **RELIEF REQUESTED**

Claimant requested an unspecified amount of compensatory damages, costs, interest, punitive damages, and a disciplinary referral.

Respondents requested that Claimant's claims be dismissed and that they be awarded their attorneys' fees and costs.

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

On or about March 17, 2004, the parties filed with NASD Dispute Resolution a notice of settlement.

On or about April 26, 2004, the parties filed with NASD Dispute Resolution a request for the entry of a Stipulated Award and proposed Stipulated Award for review and approval by the Panel.

The parties agreed that the Stipulated 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 parties' request for the entry of a Stipulated Award, and the proposed Stipulated Award submitted by the parties, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant has entered into a settlement agreement with Respondents. All claims against Respondents are dismissed with prejudice.
2. The Panel recommends that all references to the above-captioned arbitration be expunged from Respondents Nelson's and Litchfield'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, Respondents Nelson and Litchfield must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
3. The parties shall bear their own costs, expenses, and attorneys' fees incurred in connection with this proceeding.
4. All other claims in this proceeding brought by any party are denied and dismissed with prejudice.

### **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

**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, Respondent MSC is a member firm and a party.

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**

No adjournments were requested 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.

Injunctive relief fees were not assessed 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 (1) Pre-hearing session with the Panel @ \$1,000.00/session	= \$1,000.00
Pre-hearing conference: June 17, 2003 1 session	
Two (2) Pre-hearing sessions with a single arbitrator @ \$450.00/session	= \$ 900.00
Pre-hearing conferences: November 3, 2003 1 session	
February 27, 2004 1 session	
<hr/> Total Forum Fees	<hr/> = \$1,900.00

Pursuant to the agreement of the parties, the Panel has assessed forum fees as follows:

\$950.00 to Claimant; and  
\$950.00 to Respondent MSC.

**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 incurred in this matter.

**Fee Summary**

Claimant is solely liable for:

Initial Filing Fee	= \$ 250.00
Forum Fees	= \$ 950.00
<u>Retained Hearing Session Deposit pursuant to Rule 10332(f) of the Code</u>	<u>= \$ 50.00</u>
Total Fees	= \$1,250.00
<u>Less Payments</u>	<u>= \$1,250.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent MSC is solely liable for:

Member Fees	= \$4,450.00
Forum Fees	= \$ 950.00
Total Fees	= \$5,400.00
<u>Less Payments</u>	<u>= \$4,450.00</u>
Balance Due NASD Dispute Resolution	= \$ 950.00

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

**ARBITRATION PANEL**

Jack W. Windt	-	Public Arbitrator, Presiding Chairperson
Sanford O'Leesky	-	Public Arbitrator
Robert N. Hagemeyer	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

/s/  
Jack W. Windt  
Public Arbitrator, Presiding Chairperson

5/10/04  
Signature Date

/s/  
Sanford O'Leesky  
Public Arbitrator

5/5/04  
Signature Date

NASD Dispute Resolution  
Arbitration No. 02-07678  
Stipulated Award Page 5

/s/  
Robert N. Hagemeyer  
Non-Public Arbitrator

5/11/04  
Signature Date

5/14/04  
Date of Service (For NASD Dispute Resolution office use only)

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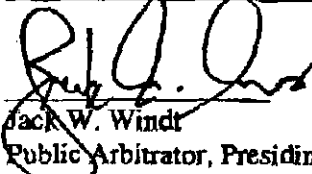
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5/10/04  
Signature Date

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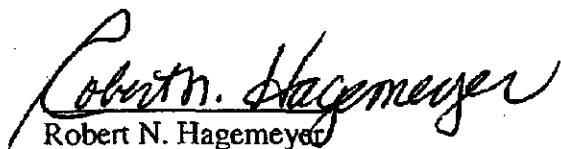
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Public Arbitrator, Presiding Chairperson

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Sanford O'Leesky  
Public Arbitrator

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
5/5/04  
Signature Date



Robert N. Hagemeyer  
Non-Public Arbitrator

May 11, 2004  
Signature Date

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

**RECEIVED**  
MAY 13 2004  
**FL ARBITRATION**