

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Oleg Briansky, Oleg Briansky IRA, Mireille Briane, Mireille Briane IRA, Oleg Briansky and Mireille Briansky, and Briansky Saratoga Ballet Center, Inc. (Claimants) v. InvestPrivate, Inc., Michael Ventura a/k/a Hichem Dhaouadi, Scott L. Mathis, and Donald Geraghty (Respondents)

Case Number: 03-00831

Hearing Site: New York, New York

Nature of the Dispute: Customers v. Member and Associated Persons.

REPRESENTATION OF PARTIES

Claimants Oleg Briansky ("O. Briansky"), Oleg Briansky IRA ("O. Briansky IRA"), Mireille Briane ("M. Briane"), Mireille Briane IRA ("M. Briane IRA"), Oleg Briansky and Mireille Briansky ("The Brianskys"), and Briansky Saratoga Ballet Center, Inc. ("Briansky Saratoga Ballet Center") hereinafter collectively referred to as "Claimants": Stewart D. Aaron, Esq., Dorsey & Whitney, LLP, New York, NY.

Respondents InvestPrivate, Inc. ("InvestPrivate"), Michael Ventura a/k/a Hichem Dhaouadi ("M. Ventura"), Scott L. Mathis ("S. Mathis"), and Donald Geraghty ("D. Geraghty") hereinafter collectively referred to as "Respondents": Eric S. Hutner, Esq., Law Offices of Eric S. Hutner & Associates, New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: February 3, 2003.

Claimant O. Briansky signed the Uniform Submission Agreement: February 2, 2003.

Claimant M. Briane signed the Uniform Submission Agreement: February 2, 2003.

Claimant Briansky Saratoga Ballet Center signed the Uniform Submission Agreement: February 3, 2003.

Joint Statement of Answer filed by Respondents on or about: April 24, 2003.

Respondent InvestPrivate signed the Uniform Submission Agreement: March 24, 2003.

Respondent M. Ventura signed the Uniform Submission Agreement: March 24, 2003.

Respondent S. Mathis signed the Uniform Submission Agreement: March 24, 2003.

Respondent D. Geraghty signed the Uniform Submission Agreement: March 24, 2003.

CASE SUMMARY

Claimants asserted the following causes of action: unsuitability; unauthorized trading; unauthorized margin transactions; churning; failure to diversify; excessive commissions; fraud in violation of Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder; common law fraud; breach of fiduciary duty; and failure to supervise. Claimants' claim involved the purchase of securities in private placement transactions involving InvestPrivate Holdings Corp. ("IPHC"), Diversified Biotech Group, Inc. ("DBGI"), and MILS Technology PLC ("MILS").

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

RELIEF REQUESTED

Claimants requested:

1. Rescission of the designated trades brokered by the Respondents together with prejudgment interest. The Claimants hereby tender the securities purchased by them through the Respondents;
2. Alternatively, the Claimants sought an award of compensatory damages in excess of \$1,180,000.00, the exact amount to be determined at the arbitration of this matter;
3. Punitive damages of at least triple the compensatory award, or \$3,540,000.00;
4. Attorneys' fees, costs and disbursements; and
5. Such other relief as the arbitrators deem just and proper.

Respondents requested that the Statement of Claim be dismissed in its entirety; Respondents be awarded the costs and disbursements of this action, including attorneys' fees; and such other relief as deemed just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

At the conclusion of Claimants' case, Respondents made a motion to dismiss four claims. The Panel granted the motion only as to the churning claim.

The parties have 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, and 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:

1. Respondents InvestPrivate and S. Mathis are jointly and severally liable for and shall pay to Claimants compensatory damages in the amount of \$431,860.00 plus interest at a rate of 5% per annum from December 3, 2001 through the date of payment of the award as follows:

Rescission of the following transactions on the grounds that they represent an unsuitable concentration of private investments and return of the monies expended:

- a. on 10/19/01 -- \$101,860.00 for IPHC to Claimant O. Briansky;
 - b. on 10/25/01 -- \$100,000.00 for DBGI to Claimant O. Briansky;
 - c. on 10/25/01 -- \$60,000.00 for DBGI to Claimant O. Briansky IRA;
 - d. on 11/30/01 -- \$110,000.00 for DBGI to Claimant O. Briansky;
 - e. on 11/30/01 -- \$35,000.00 for DBGI to Claimant M. Briane;
 - f. on 12/3/01 -- \$25,000.00 for DBGI to Claimant O. Briansky IRA;
2. All other claims against Respondents InvestPrivate and S. Mathis are dismissed.
 3. The claims of Claimants against Respondents M. Ventura and D. Geraghty are dismissed.
 4. Respondents InvestPrivate and S. Mathis are jointly and severally liable for and shall pay to Claimants the sum of \$600.00, to reimburse Claimants for the filing fee previously paid to NASD Dispute Resolution.
 5. Any and all relief not specifically addressed herein, including punitive damages, is 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 = \$600.00

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 person at the time of the events giving rise to the dispute. Accordingly, InvestPrivate, Inc. is a party.

Member surcharge = \$2,800.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$5,000.00

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with a single arbitrator @ \$450.00 = \$ 450.00
Pre-hearing conference: November 19, 2003 1 session

One (1) Pre-hearing session with Panel @ \$1,200.00 = \$ 1,200.00
Pre-hearing conference: August 12, 2003 1 session

Ten (10) Hearing sessions @ \$1,200.00 = \$12,000.00
Hearing Dates: February 3, 2004 2 sessions
February 10, 2004 2 sessions
March 16, 2004 2 sessions
May 14, 2004 2 sessions
May 24, 2004 2 sessions

Total Forum Fees = \$13,650.00

1. The Panel has assessed \$13,650.00 of the forum fees against Respondent InvestPrivate.

Fee Summary

1. Claimants are jointly and severally liable for:

Initial Filing Fee = \$ 600.00

Total Fees = \$ 600.00

Less payments = \$1,800.00

Refund Due to Claimants = \$1,200.00

As stated in the "Award" section above, Respondents InvestPrivate and S. Mathis are jointly and severally liable and shall reimburse Claimants for the \$600.00 filing fee.

2. Respondent InvestPrivate is solely liable for:

Member Fees	= \$ 8,550.00
<u>Forum Fees</u>	<u>= \$13,650.00</u>
Total Fees	= \$22,200.00
<u>Less payments</u>	<u>= \$ 8,050.00</u>
Balance Due NASD Dispute Resolution	= \$14,150.00


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

ARBITRATION PANEL

Susan C. Lushing, Esq.	-	Public Arbitrator, Presiding Chair
Richard W. Cutler, Esq.	-	Public Arbitrator
Thomas Caiaffa	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument in which is my award.



Susan C. Lushing, Esq.
Public Arbitrator, Presiding Chairperson

6/10/04

Signature Date

Richard W. Cutler, Esq.
Public Arbitrator

Signature Date

Thomas Caiaffa
Non-Public Arbitrator

Signature Date

June 21, 2004

Date of Service (For NASD Dispute Resolution use only)

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Public Arbitrator, Presiding Chairperson

Signature Date



Richard W. Cutler, Esq.
Public Arbitrator

6/9/04

Signature Date

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Non-Public Arbitrator

Signature Date

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