

Stipulated Award  
NASD Dispute Resolution

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In the Matter of the Arbitration Between:

Name of the Claimants

William J. DiBraccio  
Karen R. DiBraccio

Case Number: 03-01805

Name of the Respondents

Ryan, Beck & Co., LLC  
Dennis Reynolds

Hearing Site: Philadelphia, PA

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

REPRESENTATION OF PARTIES

Claimants, William J. DiBraccio and Karen R. DiBraccio, hereinafter collectively referred to as "Claimants," were represented by Theodore H. Jobes, Esq., Fox Rothschild LLP, Philadelphia, Pennsylvania.

Respondent, Ryan, Beck & Co. ("Ryan Beck"), was represented by Joel E. Davidson, Esq., Davidson & Grannum, LLP, Northvale, New Jersey.

Respondent, Dennis Reynolds ("Reynolds"), was represented by David W. Erb, Esq., Saul Ewing LLP, Baltimore, Maryland.

Respondents Ryan Beck and Reynolds are hereinafter collectively referred to as "Respondents."

CASE INFORMATION

Statement of Claim filed on March 11, 2003.

Claimant William J. DiBraccio signed the Uniform Submission Agreement on February 28, 2003.

Claimant Karen R. DiBraccio signed the Uniform Submission Agreement on February 28, 2003.

Statement of Answer filed by Respondents Ryan Beck and Reynolds on May 27, 2003.

Respondent Reynolds signed the Uniform Submission Agreement on May 5, 2003.

A representative of Respondent Ryan Beck signed the Uniform Submission Agreement on June 2, 2003.

CASE SUMMARY

Claimants asserted the following causes of action, among others: violation of Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder; violation of Section 15 of the Securities Act of 1933 and Section 20(a) of the Securities Exchange Act of

1934; violation of Sections 401, 403 and 404 of the Pennsylvania Securities Act of 1973; violation of the Pennsylvania Unfair Trade Practices and Consumer Protection Law; fraud; negligent misrepresentation; breach of fiduciary duty; breach of contract; negligence/failure to supervise; and *respondeat superior*. The causes of action relate to the purchase and sale of unspecified securities.

Respondents Ryan Beck and Reynolds denied the allegations made in the Statement of Claim and asserted the following defenses: the Statement of Claim and each and every cause of action therein fails to state a claim upon which relief can be granted; the damages for which Claimants seek to hold Respondents liable were proximately caused by Claimants' own failure to use reasonable means to mitigate damages; Claimants knowingly, willingly and voluntarily assumed the risks associated with their investments; Claimants cannot recover by reason of the doctrines of waiver, ratification, estoppel and laches; the damages for which Claimants seek to hold Respondents liable resulted in whole or in part from Claimants' acts or omissions, and Respondents are in no way responsible for or liable to Claimants for their own wrongful or negligent acts or omissions; Claimants failed to exercise a duty of due diligence in connection with the investments at issue as to which they assumed the risk of loss, and Claimants are therefore barred from recovery; the alleged damages of Claimants were caused by their own conduct or negligence, and/or Claimants were contributorily negligent, and are therefore precluded from recovery herein; Claimants' losses were caused by the NASDAQ market crash and not by any act or omission of the Respondents; Respondents did not breach any duty or responsibility to Claimants with respect to suitability, excessive trading, supervision or any other sales practice issues; Claimants are in breach of their express and/or implied contract with Ryan Beck to notify Ryan Beck of complaints within ten days of receipt of a confirmation; Claimants were at all times aware of and suitable for the positions they maintained; Claimants controlled their account and the trading was consistent with their objectives; some of the claims, including all of the federal claims, are barred by the applicable statute of limitations; and there is no private right of action under the Pennsylvania UTPCPL or the Pennsylvania Securities Act.

Claimants denied and disputed the defenses raised by Respondents.

#### RELIEF REQUESTED

Claimants requested the following damages:

Compensatory Damages	amount unspecified
Punitive Damages	amount unspecified
Treble Damages	amount unspecified
Interest	amount unspecified
Attorneys' Fees	amount unspecified
Other Costs	amount unspecified

Respondents in their Statement of Answer requested dismissal of the Statement of Claim.

### OTHER ISSUES CONSIDERED AND DECIDED

Prior to the hearing, the Parties fully and finally settled all claims by and between them. Therefore, the Parties submit this Stipulated Award to the Panel for its consideration and request that it be entered. The Parties agreed to a settlement solely for the purpose of avoiding the time and expense of further protracted arbitration proceedings. None of the Parties made any admission of fact, liability or fault on the part of any Party, or as to the validity of any of the claims or defenses asserted or which could have been asserted in this matter.

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

### AWARD

Pursuant to the above, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. The listed parties have amenablely resolved their differences and have requested this Stipulated Award;
2. Each of the claims asserted in this arbitration are hereby dismissed with prejudice;
3. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Reynolds' 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 Reynolds must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive;
4. The parties shall bear their respective costs, including attorney's fees, except as set forth in the Settlement Agreement executed by the parties and except as Fees are specifically addressed below; and
5. Any and all relief not specifically addressed herein, including punitive damages, is denied in its entirety.

### 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 = \$ 250.00

#### Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated person(s) at the time of the events giving rise to the dispute. Accordingly, Ryan Beck is a party.

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

#### Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the 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 @ \$ 1,000	= \$ 1,000.00
Pre-hearing conference: October 15, 2003 1 session	
Total Forum Fees	= \$ 1,000.00

1. The Panel has assessed \$ 500.00 of the forum fees jointly and severally to Claimants.
2. The Panel has assessed \$ 500.00 of the forum fees jointly and severally to Respondents.

#### SEE SUMMARY

1. Claimants, William J. DiBraccio and Karen R. DiBraccio, are jointly and severally assessed and shall pay the following fees:

Initial Filing Fee	= \$ 250.00
Forum Fees	= \$ 500.00
Total Fees	= \$ 750.00
Less payments	= \$ 1,800.00
Refund owed to Claimants	= \$ 1,050.00

2. Respondent, Ryan Beck, is assessed and shall pay the following fees:

Member Fees	= \$ 4,450.00
Total Fees	= \$ 4,450.00
Less payments	= \$ 9,100.00
Refund owed to Respondent Ryan Beck (returned to CRD)	= \$ 4,650.00

3. Respondents, Ryan Beck and Reynolds, are jointly and severally assessed and shall pay the following fees:

Forum Fees	= \$ 500.00
Total Fees	= \$ 500.00
Less payments	= \$ 500.00
Balance Due NASD Dispute Resolution	= \$ 00.00

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

ARBITRATION PANEL

Jerrilyn G. Marston, Esquire	-	Public Arbitrator, Presiding Chairperson
James M. Waters	-	Industry Arbitrator, Panelist
Robert A. Alston, Esquire	-	Public Arbitrator, Panelist

Concurring Arbitrators' Signatures

\_\_\_\_\_  
Jerrilyn G. Marston, Esq.  
Public Arbitrator, Presiding Chairperson

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

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Robert A. Alston, Esq.  
Public Arbitrator, Panelist

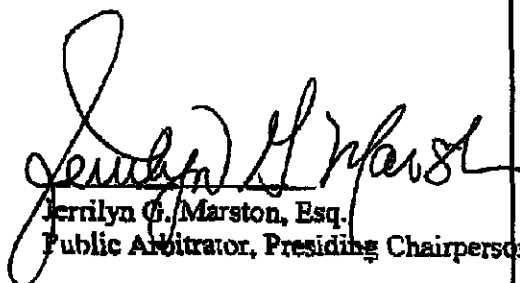
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James M. Waters  
Industry Arbitrator, Panelist

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

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Public Arbitrator, Presiding Chairperson

7-12-04  
Signature Date

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Robert A. Alston, Esq.  
Public Arbitrator, Panelist

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Signature Date

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James M. Waters  
Industry Arbitrator, Panelist

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Signature Date


July 22, 2004  
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Robert A. Alston, Esq.  
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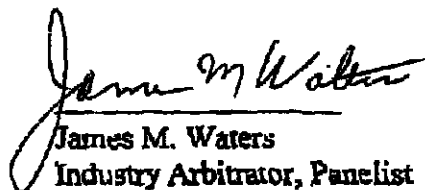
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