

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

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In the Matter of the Arbitration Between:

Christopher J. Davis (Claimant) v. Wise A. Skillman, III, Samuel Sherr, and Mark Allen Lefkowitz (Respondents)

Case Number: 03-03033

Hearing Site: New York, New York

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Nature of the Dispute: Customer vs. Associated Persons.

**REPRESENTATION OF PARTIES**

Claimant Christopher J. Davis ("Davis") hereinafter referred to as "Claimant" appeared *pro se*.

Respondent Samuel Sherr ("Sherr") appeared *pro se*.

Respondent Mark Allen Lefkowitz ("Lefkowitz"): Michael H. Ference, Esq., Sichenzia Ross Friedman Ference, LLP, New York, NY.

Respondent Wise A. Skillman, III ("Skillman") did not enter an appearance in this matter.

Sherr, Lefkowitz, and Skillman are hereinafter referred to as "Respondents".

**CASE INFORMATION**

Statement of Claim filed on or about: April 11, 2003.

Claimant signed the Uniform Submission Agreement: April 10, 2003.

Statement of Answer filed by Respondent Sherr on or about: December 1, 2003.

Respondent Sherr did not sign the Uniform Submission Agreement.

Statement of Answer filed by Respondent Lefkowitz on or about: June 19, 2003.

Respondent Lefkowitz did not sign the Uniform Submission Agreement.

Respondent Skillman did not file a Statement of Answer or sign the Uniform Submission Agreement.

### **CASE SUMMARY**

Claimant asserted the following causes of action: failure to execute a stop loss instruction and failure to supervise. Claimant's claims involved shares of Quintus Corporation.

Unless specifically admitted in his Answer, Respondent Sherr denied the allegations made in the Statement of Claim.

Unless specifically admitted in his Answer, Lefkowitz denied the allegations made in the Statement of claim and asserted various affirmative defenses.

### **RELIEF REQUESTED**

Claimant requested compensatory damages in the amount of \$91,000.00; interest from July 21, 2000; attorneys' fees; and travel and preparation costs in the amount of \$3,000.00.

Respondent Lefkowitz requested that the Panel dismiss the Statement of Claim in its entirety, and award him reasonable costs, including attorneys' fees and forum fees of this proceeding and such other relief as the Panel deems just and appropriate.

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

Upon review of the file and the representations made by the Claimant, the undersigned arbitrators (the "Panel") determined that Respondent Skillman has been properly served with the Statement of Claim and received due notice of the hearing and that arbitration of the matter would proceed without said Respondent present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

Respondent Sherr did not file with NASD Dispute Resolution a properly executed Uniform Submission Agreement but is required to submit to arbitration pursuant to the Code and having answered the claim is bound by the determination of the Panel on all issues submitted.

Respondent Skillman did not file with NASD Dispute Resolution a properly executed Uniform Submission Agreement but is required to submit to arbitration pursuant to the Code and is bound by the determination of the Panel on all issues submitted.

On or about June 24, 2003, Respondent Lefkowitz filed for bankruptcy under Chapter 7 of the Bankruptcy Code in the United States Bankruptcy Court Eastern District of New York. Therefore, all claims against Respondent Lefkowitz are stayed.

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. Respondent Skillman is liable for and shall pay to Claimant compensatory damages in the amount of \$44,027.00.
2. Respondent Skillman is liable for and shall pay to Claimant the sum of \$225.00, to reimburse Claimant for the filing fee previously paid to NASD Dispute Resolution.
3. Respondent Sherr is liable for and shall pay to Claimant compensatory damages in the amount of \$22,013.00.
4. Any and all relief not specifically addressed herein 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	= \$225.00
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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. Accordingly, C.B. Hill & Associates, Inc. is the Respondents' former firm.

Member surcharge	= Waived
Pre-hearing process fee	= Waived
Hearing process fee	= Waived

#### **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 Panel @ \$750.00 = \$ 750.00  
Pre-hearing conference: December 5, 2003 1 session

One (1) Hearing session @ \$750.00 = \$ 750.00  
Hearing Date: March 25, 2004 1 session  

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Total Forum Fees = \$1,500.00

1. The Panel has assessed \$1,500.00 of the forum fees against Respondent Skillman.

**Fee Summary**

1. Claimant is solely liable for:

<u>Initial Filing Fee</u>	= \$ 225.00
Total Fees	= \$ 225.00
<u>Less payments</u>	= \$ 975.00
Refund Due to Claimant	= \$ 750.00

*As stated in the "Award" section above, Respondent Skillman is liable and shall reimburse Claimant for the \$225.00 filing fee.*

2. Skillman is solely liable for:

Forum Fees	= \$1,500.00
Total Fees	= \$1,500.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$1,500.00

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

**ARBITRATION PANEL**

Kinchen C. Bizzell, Esq., CFA	-	Public Arbitrator, Presiding Chair
William Turner	-	Public Arbitrator
Lisa A. Ndoye	-	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, which is my award.

Kinchen C. Bizzell  
Kinchen C. Bizzell, Esq., CFA  
Public Arbitrator, Presiding Chairperson

April 6, 2004  
Signature Date

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William Turner  
Public Arbitrator

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Signature Date

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Lisa A. Ndoye  
Non-Public Arbitrator

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Signature Date

April 20, 2004  
Date of Service (For NASD Dispute Resolution use only)

**ARBITRATION PANEL**

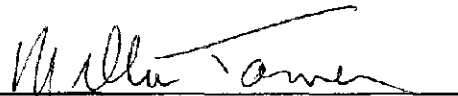
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William Tanner	-	Public Arbitrator
Lisa A. Ndiaye	-	Non-Public Arbitrator

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April 20, 2004

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