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

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In the Matter of the Arbitration Between:

Names of the Claimants

Robert White, Individually and on behalf of his IRAs  
Carmelina Lampos, Individually and on behalf of her IRAs  
Raven Enterprises, Ltd.

Case Number: 03-03166

Names of the Respondents

J.P. Morgan Securities, Inc.  
Robertson Stephens, Inc.  
Kiernan Francis McDonough  
David Allen Poulin  
Robert F. Mason  
Lacey Odis Patrick Corbett III

Hearing Site: Boca Raton, Florida

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

**REPRESENTATION OF PARTIES**

For Robert White, Individually and on behalf of his IRAs ("White"), Carmelina Lampos, Individually and on behalf of her IRAs ("Lampos"), and Raven Enterprises, Ltd. ("Raven"), hereinafter collectively referred to as "Claimants": Christopher J. Bebel, Esq., Sacks, Bebel & Boll, LLC, Houston, Texas.

For J.P. Morgan Securities, Inc. ("JPM"), Robertson Stephens, Inc. ("RSI"), Kiernan Francis McDonough ("McDonough"), David Allen Poulin ("Poulin"), Robert F. Mason ("Mason") and Lacey Odis Patrick Corbett III ("Corbett"), hereinafter collectively referred to as "Respondents": David C. Boch, Esq. and Matthew C. Applebaum, Bingham McCutchen LLP, Boston, Massachusetts.

**CASE INFORMATION**

Statement of Claim filed on or about: April 28, 2003.

Claimant White signed the Uniform Submission Agreement: April 14, 2003.

Claimant Lampos signed the Uniform Submission Agreement: April 16, 2003.

Claimant Raven did not file an executed Uniform Submission Agreement.

Statement of Answer and Counterclaim filed by Respondents on or about: July 22, 2003.

Respondents JPM, McDonough and Corbett signed the Uniform Submission Agreements: July 21, 2003.

Respondents RSI, Poulin and Mason signed the Uniform Submission Agreements: July 22, 2003.

Answer to Counterclaim filed by Claimant White on or about: August 7, 2003.

Request to Amend Statement of Claim and First Amended Statement of Claim filed by Claimants on or about: October 28, 2003.

Response Opposing in Part Claimants' Motion to Amend Statement of Claim filed by Respondents on or about: November 13, 2003.

Amended Answer filed by Respondents on or about: December 23, 2003.

### **CASE SUMMARY**

Claimants asserted the following causes of action: breach of contract and warranties, promissory estoppel, violation of consumer protection laws and deceptive trade practices, violation of federal securities laws, violation of state securities statutes, fraud, negligent misrepresentation, breach of fiduciary duty, and respondeat superior. The causes of action relate to the purchase in Claimants' accounts of various unspecified technology stocks.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses: Claimants failed to state any claim upon which relief could be granted, Claimants suffered no damages by reasons of the acts of Respondents, the risks inherent in the investments at issue were fully disclosed or known to them, Claimants directed the investments in their accounts, Claimants' claims are barred by the statute of limitations, ratification and waiver, and Claimants are not entitled to any damages. Additionally, Respondents asserted a cause of action for indemnification against Claimant White.

Unless specifically admitted in his Answer to Respondents' Counterclaim, Claimant White denied the allegations made in the Counterclaim and asserted various defenses.

### **RELIEF REQUESTED**

Claimants requested compensatory damages in the range of between \$1,000,000.00 and \$5,000,000.00, which includes the following:

1. all sums lost in the accounts on any or all transactions made or not made;
2. all lost opportunities;
3. rescission of any or all transactions;
4. statutory damages as provided by applicable law; and/or
5. punitive damages in an unspecified amount.

Claimant additionally requested the following relief:

1. pre-judgment interest on all sums invested, from the date deposited until the date of the award and/or judgment and until such sums are paid, all at the highest rate allowed by law;
2. all costs of these proceedings and for recovery of damages incurred, including costs incurred while on appeal, if any, and for collection;
3. submission and/or referral to a court of competent jurisdiction for an award of attorneys' fees, including attorneys' fees incurred on appeal, if any (with such submission and/or referral referencing the theory or theories upon which Claimants prevailed); and/or
4. any and all other relief available to Claimants, in law or equity or otherwise, which may be granted by the Panel.

Respondents requested indemnification from Claimant White for any liability against Respondents with respect to the claims of Claimant Lampos. Additionally, Respondents requested dismissal of the Claimants' claims, expungement of any reference to this claim from the NASD Central Registration Depository ("CRD") records of Respondents McDonough, Poulin, Mason and Corbett, assessment of all forum fees and costs against Claimants and an award of such other, further and different relief as the Panel deemed appropriate.

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

Claimant Raven did not file with NASD Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code"), and, having filed the claim and participated in the settlement thereof, is bound by the determination of the Panel on all issues submitted.

Respondent RSI currently is not a registered NASD member firm, but having filed an executed Uniform Submission Agreement, answered the claim and participated in the settlement thereof, is bound by the determination of the Panel on all issues submitted.

On or about December 3, 2003, the Panel issued an Order, which granted Claimants' motion to amend the Statement of Claim. Pursuant to Claimants' Amended Statement of Claim, all claims brought by Claimant Lampos, individually and on behalf of her IRAs, were withdrawn with prejudice, rendering Respondents' counterclaim for indemnification moot. Additionally, Claimant Raven was added as a Claimant in this matter.

On or about June 1, 2004, the parties filed with NASD Dispute Resolution a notice of settlement.

On or about August 5, 2004, the parties filed with NASD Dispute Resolution a proposed Stipulated Award for review and approval by the Panel, which included a request for an Order, in furtherance of the parties' agreement concerning the resolution of this matter, recommending expungement of all references to these proceedings from the NASD CRD records of Respondents McDonough, Poulin, Mason and Corbett.

On or about August 27, 2004, Arbitrator Ned Young withdrew from the Panel, and the parties jointly elected to proceed with the two remaining arbitrators.

The parties have agreed that the Stipulated Award in this matter may be executed in counterpart copies or that a handwritten, signed Stipulated Award may be entered.

### **AWARD**

After considering the pleadings 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. The parties have agreed to settle this matter for a sum certain to be paid by Respondents JPM and RSI.
2. Claimants' claims are hereby dismissed in their entirety with prejudice, and all other requests for relief are denied.

3. All parties are to bear their own attorneys' fees.
4. Discovery in this matter has established grounds for withdrawal of the claims in the Statement of Claim and Amended Statement of Claim against Respondents McDonough, Poulin, Mason and Corbett, as being without sufficient factual basis.
5. Settlement and expungement of reference to these proceedings from the registration records maintained by the NASD CRD of Respondents McDonough, Poulin, Mason and Corbett would have no material adverse effect on investor protection, the integrity of the NASD CRD system or regulatory requirements.
6. Accordingly, the Panel recommends that all references to the above-captioned arbitration be expunged from Respondents McDonough's, Poulin's, Mason's and Corbett's registration records maintained by the NASD CRD, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondents McDonough, Poulin, Mason and Corbett must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

### **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
Counterclaim filing fee	= \$2,000.00

#### **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, Respondent JPM is a member firm and a party, and Respondent RSI is a party:

Respondent JPM's Member surcharge	= \$2,800.00
Respondent JPM's Pre-hearing process fee	= \$ 750.00
<u>Respondent JPM's Hearing process fee</u>	<u>= \$5,000.00</u>
Respondent JPM's Total Member Fees	= \$8,550.00
Respondent RSI's Member surcharge	= \$2,800.00
Respondent RSI's Pre-hearing process fee	= \$ 750.00
<u>Respondent RSI's Hearing process fee</u>	<u>= \$5,000.00</u>
Respondent RSI's Total Member Fees	= \$8,550.00

#### **Adjournment Fees**

No adjournment fees were assessed in this matter.

**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 three-day cancellation fees were assessed 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.

No injunctive relief fees were incurred during this proceeding.

**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:

Two (2) Pre-hearing sessions with the Panel @ \$1,200.00/session	= \$2,400.00
Pre-hearing conferences: November 3, 2003 1 session	
May 5, 2004 1 session	
One (1) Pre-hearing session with a single arbitrator @ 450.00/session	= \$ 450.00
February 5, 2004 1 session	
<b>Total Forum Fees</b>	<b>= \$2,850.00</b>

Pursuant to the agreement of the parties, the Panel has assessed the total forum fees of \$2,850.00 to Respondents JPM and RSI, jointly and severally.

**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**

Claimants White, Lamos and Raven are jointly and severally liable for:

Initial Filing Fee	= \$ 600.00
Total Fees	= \$ 600.00
Less payments	= \$ 600.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents JPM, RSI, McDonough, Poulin, Mason and Corbett are jointly and severally liable for:

Counterclaim Filing Fee	= \$2,000.00
Total Fees	= \$2,000.00
Less payments	= \$2,000.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent JPM is solely liable for:

Member Fees	= \$8,550.00
Total Fees	= \$8,550.00
Less payments	= \$8,550.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent RSI is solely liable for:

Member Fees	= \$8,550.00
Total Fees	= \$8,550.00
Less payments	= \$ 750.00
Balance Due NASD Dispute Resolution	= \$7,800.00

Respondents JPM and RSI are jointly and severally liable for:

Forum Fees	= \$2,850.00
Total Fees	= \$2,850.00
Less payments	= \$2,850.00
Balance Due NASD Dispute Resolution	= \$ 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**

Michael Lukasievich, Esq.	-	Public Arbitrator, Presiding Chairperson
Ned B. Young	-	Non-Public Arbitrator
John F. Morack, Ph.D	-	Public Arbitrator

**Concurring Arbitrators' Signatures**

/s/  
Michael Lukasievich, Esq.  
Public Arbitrator, Presiding Chairperson

August 31, 2004  
Signature Date

/s/  
John F. Morack, Ph.D  
Public Arbitrator

August 30, 2004  
Signature Date

September 8, 2004  
Date of Service (For NASD Dispute Resolution office use only)

**NASD Dispute Resolution**  
**Arbitration No. 03-03166**  
**Stipulated Award Page 6**

Respondents JPM, RSI, McDonough, Poulin, Mason and Corbett are jointly and severally liable for:

<u>Counterclaim Filing Fee</u>	= \$2,000.00
<u>Total Fees</u>	= \$2,000.00
<u>Less payments</u>	= \$2,000.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 0.00

Respondent JPM is solely liable for:

<u>Member Fees</u>	= \$8,550.00
<u>Total Fees</u>	= \$8,550.00
<u>Less payments</u>	= \$8,550.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 0.00

Respondent RSI is solely liable for:

<u>Member Fees</u>	= \$8,550.00
<u>Total Fees</u>	= \$8,550.00
<u>Less payments</u>	= \$ 750.00
<u>Balance Due NASD Dispute Resolution</u>	= \$7,800.00

Respondents JPM and RSI are jointly and severally liable for:

<u>Forum Fees</u>	= \$2,850.00
<u>Total Fees</u>	= \$2,850.00
<u>Less payments</u>	= \$2,850.00
<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**

Michael Lukasievich, Esq.

Ned B. Young

John F. Morack, Ph.D

Public Arbitrator, Presiding Chairperson

Non-Public Arbitrator

Public Arbitrator

**Concurring Arbitrators' Signatures**

Michael Lukasievich, Esq.

Public Arbitrator, Presiding Chairperson

*John F. Morack, Ph.D.*

John F. Morack, Ph.D

Public Arbitrator

Signature Date

*8/30/2004*

Signature Date

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

Respondents JPM, RSI, McDonough, Poulin, Mason and Corbett are jointly and severally liable for:

<u>Counterclaim Filing Fee</u>	= \$2,000.00
<u>Total Fees</u>	= \$2,000.00
<u>Less payments</u>	= \$2,000.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 0.00

Respondent JPM is solely liable for:

<u>Member Fees</u>	= \$8,550.00
<u>Total Fees</u>	= \$8,550.00
<u>Less payments</u>	= \$8,550.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 0.00

Respondent RSI is solely liable for:

<u>Member Fees</u>	= \$8,550.00
<u>Total Fees</u>	= \$8,550.00
<u>Less payments</u>	= \$ 750.00
<u>Balance Due NASD Dispute Resolution</u>	= \$7,800.00

Respondents JPM and RSI are jointly and severally liable for:

<u>Forum Fees</u>	= \$2,850.00
<u>Total Fees</u>	= \$2,850.00
<u>Less payments</u>	= \$2,850.00
<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.

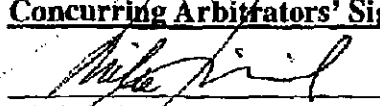
**ARBITRATION PANEL**

Michael Lukasievich, Esq.  
Ned B. Young  
John F. Morack, Ph.D

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Public Arbitrator, Presiding Chairperson  
Non-Public Arbitrator  
Public Arbitrator

**Concurring Arbitrators' Signatures**

  
Michael Lukasievich, Esq.  
Public Arbitrator, Presiding Chairperson

8/31/04  
Signature Date

John F. Morack, Ph.D  
Public Arbitrator

Signature Date

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