

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

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In the Matter of the Arbitration Between:

John Shapiro, Claimant v. R.M. Stark & Co., Inc., Geoffrey A. Bigley, and Michael Townsend,  
Respondents

Case Number: 03-03397

Hearing Site: San Diego, California

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

**REPRESENTATION OF PARTIES**

For Claimant:

James Richard Hooper, Esq.  
Eduardo Rodriquez, Esq.  
Hooper & Weiss, LLC  
Orlando, Florida

For Respondents:

William Zeena, Jr., Esq.  
Alan M. Herman, Esq.  
Wilson, Elser, Moskowitz, Edelman & Dicker LLP  
Miami, Florida

**CASE INFORMATION**

Statement of Claim filed on or about: May 8, 2003

Claimant's Uniform Submission Agreement signed: April 2, 2002

Joint Statement of Answer filed by Respondents: July 25, 2003

Respondent R.M. Stark & Co., Inc.'s Uniform Submission Agreement signed: June 18, 2003

Respondent Geoffrey A. Bigley's Uniform Submission Agreement signed: July 29, 2003

Respondent Michael Townsend's Uniform Submission Agreement signed: July 25, 2003

### **CASE SUMMARY**

Claimant alleged omissions and misrepresentations, negligence, failure to supervise, breach of fiduciary duty, and violation of Rule 2110 of the NASD Conduct Rules. The causes of action relate to Claimant's margin account and among other unspecified securities, Qualcomm Inc. stock.

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

### **RELIEF REQUESTED**

Claimant requested compensatory damages in the amount of \$567,489.11, unspecified punitive damages, and costs, including attorney's fees.

Respondents requested dismissal of the Claimant's Statement of Claim in its entirety, and costs, including attorney's fees.

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

On January 19, 2004, Claimant and Claimant's counsel signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

Pursuant to the Code of Arbitration Procedure IM-10100, the waiver of the Claimant shall constitute and operate as a waiver for all member firms and associated persons (including terminated or otherwise inactive member firms or associated persons) against whom the Claim has been filed.

The parties 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 Parties' request for this Stipulated Award, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Claimants and Respondents have entered into a confidential settlement agreement.
- 2) The panel recommends the expungement of all reference to the above captioned arbitration from Respondent Geoffrey A. Bigley'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, Respondent Geoffrey A. Bigley must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 3) The panel recommends the expungement of all reference to the above captioned arbitration from Respondent Michael Townsend's registration records maintained by the CRD, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Michael Townsend must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 4) All other relief requested and not expressly granted is denied.

### **FEES**

Pursuant to the *Code of Arbitration Procedure* ("Code"), the following fees are assessed:

#### **Filing Fees**

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 375.00
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#### **Member Fees**

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm R.M. Stark & Co., Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 2,250.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$ 4,000.00</u>
<b>Total Member Fees</b>	<b>= \$ 7,000.00</b>

**Adjournment Fees**

The following adjournment fees are assessed:

April 5-8, 2005, adjournment requested by Claimants and Respondents = \$ 1,200.00

1. The Panel assessed \$600.00 of the adjournment fees to Claimant.
2. The Panel assessed \$600.00 of the adjournment fees jointly and severally to Respondents.

**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 conference session with the Panel @ \$1,200.00/session = \$ 1,200.00  
Pre-hearing conference: April 15, 2004 1 session

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**Total Forum Fees = \$ 1,200.00**

1. The Panel assessed \$600.00 of the forum fees to Claimant.
2. The Panel assessed \$600.00 of the forum fees jointly and severally to Respondents.

**Fee Summary**

1. Claimant is charged with the following fees and costs:

Initial Filing Fee	= \$ 375.00
Adjournment Fee	= \$ 600.00
Forum Fees	= \$ 600.00
Total Fees	= \$ 1,575.00
Less payments	= \$(1,575.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 0.00</b>
2. Respondent R.M. Stark & Co., Inc. is charged with the following fees and costs:

Member Fees	= \$ 7,000.00
Less payments	= \$(7,000.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 0.00</b>

3. Respondents R.M. Stark & Co., Inc., Geoffrey A. Bigley, and Michael Townsend are charged jointly and severally with the following fees and costs:

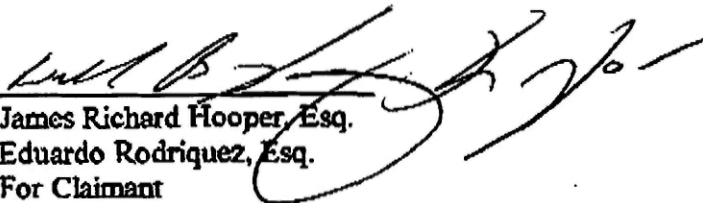
Forum Fees	= \$ 600.00
<u>Adjournment Fee</u>	<u>= \$ 600.00</u>
Total Fees	= \$ 1,200.00
<u>Less Payment by R.M. Stark &amp; Co., Inc.</u>	<u>= \$(1,800.00)</u>
<b>Refund Due R.M. Stark &amp; Co., Inc.</b>	<b>= \$( 600.00)</b>

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

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Arbitration No. 03-03397  
Stipulated Award Page 6 of 7

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**Parties' Signatures**

  
James Richard Hooper, Esq.  
Eduardo Rodriguez, Esq.  
For Claimant  
John Shapiro

10/14/05  
Signature Date

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William Zeena, Jr., Esq.  
Alan M. Herman, Esq.  
For Respondents  
R.M. Stark & Co., Inc., Geoffrey A. Bigley,  
and Michael Townsend

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Signature Date

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For Claimant  
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Signature Date

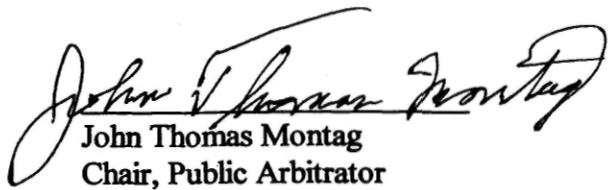
  
William Zeena, Jr., Esq.  
Alan M. Herman, Esq.  
For Respondents  
R.M. Stark & Co., Inc., Geoffrey A. Bigley,  
and Michael Townsend

6/24/05  
Signature Date

**ARBITRATION PANEL**

John Thomas Montag	-	Public Arbitrator, Presiding Chair
Ronald N. Roth	-	Public Arbitrator
J. A. Dutcher, CPA	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

  
John Thomas Montag  
Chair, Public Arbitrator

10/19/05  
Signature Date

\_\_\_\_\_  
Ronald N. Roth  
Public Arbitrator

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

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J. A. Dutcher, CPA  
Non-Public Arbitrator

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Signature Date

10/27/05  
Date of Service



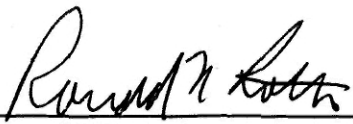
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Signature Date

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J. A. Dutcher, CPA  
Non-Public Arbitrator

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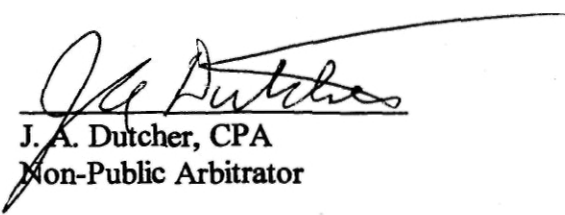
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Chair, Public Arbitrator

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Signature Date

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Ronald N. Roth  
Public Arbitrator

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Signature Date

  
\_\_\_\_\_  
J. A. Dutcher, CPA  
Non-Public Arbitrator

10/17/05  
\_\_\_\_\_  
Signature Date

10/27/05  
\_\_\_\_\_  
Date of Service