

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

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In the Matter of the Arbitration Between:

Jones & Associates, Inc. and Neuberger Berman, LLC (Claimants) v. CRT Capital Group, LLC and Hill, Thompson, Magid & Co., Inc. (Respondents)

Case Number: 03-03774

Hearing Site: New York, New York

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Nature of the Dispute: Members vs. Members.

**REPRESENTATION OF PARTIES**

Claimants Jones & Associates, Inc. ("Jones") and Neuberger Berman, LLC ("Neuberger") hereinafter collectively referred to as "Claimants": Gideon Mark, Esq., Paduano & Weintraub, LLP, New York, NY.

Respondent CRT Capital Group, LLC ("CRT"): Jay Strum, Esq., Kay Scholer, LLP, New York, NY.

Respondent Hill, Thompson, Magid & Co., Inc. ("Hill Thompson"): Stewart D. Aaron, Esq., Dorsey & Whitney, LLP, New York, NY.

CRT and Hill Thompson are hereinafter collectively referred to as "Respondents".

**CASE INFORMATION**

Statement of Claim filed on or about: May 23, 2003.

Jones signed the Uniform Submission Agreement: May 8, 2003.

Neuberger signed the Uniform Submission Agreement: May 21, 2003.

Statement of Answer filed by Respondent CRT on or about: August 29, 2003.

Respondent CRT signed the Uniform Submission Agreement: August 26, 2003.

Statement of Answer filed by Respondent Hill Thompson on or about: September 2, 2003.

Respondent Hill Thompson signed the Uniform Submission Agreement: August 28, 2003.

### **CASE SUMMARY**

*Claimant asserted the following causes of action: breach of contract against Hill Thompson; breach of contract against CRT; violation of NASD Conduct Rule 2110; federal securities fraud against CRT; and common law fraud against CRT.*

Unless specifically admitted in its Answer, Respondent CRT denied the allegations made in the Statement of Claim.

Unless specifically admitted in its Answer, Respondent Hill Thompson denied the allegations made in the Statement of Claim.

### **RELIEF REQUESTED**

Claimants requested compensatory damages in the amount of \$180,000.00; interest; attorneys' fees and costs as recoverable by law; and such further relief as the Panel deems just and proper.

Respondent CRT requested that the Panel grant a judgment that all trades should have been adjusted and settled on a basis to reflect the 1-for-4 reverse stock split and that provides closure for sales that have settled on an adjusted basis; in the alternative, dismiss the NASD arbitration dispute, and allowing a more suitable forum to handle this dispute; award attorneys' fees, costs and disbursements; and grant such other relief as is just and proper.

Respondent Hill Thompson requested that the Panel dismiss the claim pursuant to Rule 10305 of the NASD Code of Arbitration Procedure.

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

Prior to the scheduled hearing dates, Respondents made motions for the Panel to dismiss the arbitration pursuant to Rule 10305 of the NASD Code of Arbitration Procedure, due to Judge Ramos' grant of a motion of summary judgment dated March 15, 2004, Index Number 0600410-2003, which has a bearing in this matter. The Panel considered all of the arguments presented, and has determined to dismiss the arbitration without prejudice to Claimants' right to re-file in the event that the aforementioned grant of summary judgment is overturned.

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, the arguments, testimony, and evidence presented at the

pre-hearing conference, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimants' claims are dismissed without prejudice.
2. 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 = \$1,000.00

#### **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 at the time of the events giving rise to the dispute. Accordingly, Jones & Associates, Inc. is a party.

Member surcharge = \$1,700.00  
Pre-hearing process fee = \$ 750.00  
Hearing process fee = \$2,750.00

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 at the time of the events giving rise to the dispute. Accordingly, Neuberger Berman, LLC is a party.

Member surcharge = \$1,700.00  
Pre-hearing process fee = \$ 750.00  
Hearing process fee = \$2,750.00

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 at the time of the events giving rise to the dispute. Accordingly, CRT Capital Group, LLC is a party.

Member surcharge = \$1,700.00  
Pre-hearing process fee = \$ 750.00  
Hearing process fee = \$2,750.00

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 at the time of the events giving rise to the dispute. Accordingly, Hill, Thompson, Magid & Co., Inc. is a party.

Member surcharge = \$1,700.00  
Pre-hearing process fee = \$ 750.00  
Hearing process fee = \$2,750.00

**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:

Two (2) Pre-hearing sessions with Panel @ \$1,125.00	= \$2,250.00
Pre-hearing conferences: December 17, 2003 1 session	
March 17, 2004 1 session	
Total Forum Fees	= \$2,250.00

1. The Panel has assessed \$562.50 of the forum fees against Claimant Jones.
2. The Panel has assessed \$562.50 of the forum fees against Claimant Neuberger.
3. The Panel has assessed \$562.50 of the forum fees against Respondent CRT.
4. The Panel has assessed \$562.50 of the forum fees against Respondent Hill Thompson.

**Fee Summary**

1. Claimants are jointly and severally liable for:

Initial Filing Fee	= \$1,000.00
Total Fees	= \$1,000.00
Less payments	= \$1,000.00
Balance Due NASD Dispute Resolution	= \$ 0.00

2. Claimant Jones is solely liable for:

Member Fees	= \$5,200.00
Forum Fees	= \$ 562.50
Total Fees	= \$5,762.50
Less payments	= \$5,762.50
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Claimant Neuberger is solely liable for:

Member Fees	= \$5,200.00
Forum Fees	= \$ 562.50
Total Fees	= \$5,762.50
Less payments	= \$5,762.50
Balance Due NASD Dispute Resolution	= \$ 0.00

4. Respondent CRT is solely liable for:

Member Fees	= \$5,200.00
Forum Fees	= \$ 562.50
Total Fees	= \$5,762.50
Less payments	= \$5,200.00

Balance Due NASD Dispute Resolution = \$ 562.50

5. Respondent Hill Thompson is solely liable for:

Member Fees = \$5,200.00

Forum Fees = \$ 562.50

Total Fees = \$5,762.50

Less payments = \$5,200.00

Balance Due NASD Dispute Resolution = \$ 562.50

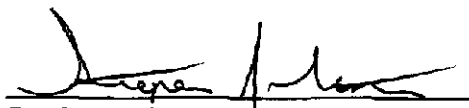
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Stephen J. Storen	-	Non-Public Arbitrator, Presiding Chair
Walter A. Kapuscinski	-	Non-Public Arbitrator
Neil G. Gargiulo	-	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.



Stephen J. Storen  
Non-Public Arbitrator, Presiding Chairperson

5/4/04  
Signature Date

\_\_\_\_\_  
Walter A. Kapuscinski  
Non-Public Arbitrator

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

\_\_\_\_\_  
Neil G. Gargiulo  
Non-Public Arbitrator

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

May 4, 2004  
Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

Stephen J. Storen	-	Non-Public Arbitrator, Presiding Chair
Walter A. Kapuscinski	-	Non-Public Arbitrator
Neil G. Gargiulo	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

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\_\_\_\_\_  
Stephen J. Storen  
Non-Public Arbitrator, Presiding Chairperson

  
\_\_\_\_\_  
Walter A. Kapuscinski  
Non-Public Arbitrator

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

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

\_\_\_\_\_  
Neil G. Gargiulo  
Non-Public Arbitrator

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

\_\_\_\_\_  
May 6, 2004  
Date of Service (For NASD Dispute Resolution use only)

**ARBITRATION PANEL**

Stephen J. Storen	-	Non-Public Arbitrator, Presiding Chair
Walter A. Kapuscinski	-	Non-Public Arbitrator
Neil G. Gargiulo	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

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\_\_\_\_\_  
Stephen J. Storen  
Non-Public Arbitrator, Presiding Chairperson

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

\_\_\_\_\_  
Walter A. Kapuscinski  
Non-Public Arbitrator

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

  
\_\_\_\_\_  
Neil G. Gargiulo  
Non-Public Arbitrator

5.5.04  
\_\_\_\_\_  
Signature Date

May 6, 2004  
Date of Service (For NASD Dispute Resolution use only)



**NASD DISPUTE RESOLUTION AWARD**  
**NASD DISPUTE RESOLUTION**

CASE: 03-03779

Ralph Ruffolo, Claimant v. Sheldon Andre and First Montauk Securities Corporation, Respondents.

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**ATTORNEYS:**

For Claimant, Ralph Ruffolo, ("Claimant") appeared Marcella Silverman, Esq., New York, NY.

Respondents, Sheldon Andre and First Montauk Securities Corporation, ("Respondents"), appeared through their in-house counsel Joel Levinson, Esq., Red Bank, NJ.

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**NATURE OF DISPUTE:** Customer v. Member and Associated Person

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**DATE FILED:** May 23, 2003

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**CASE SUMMARY:** Claimant alleged that Respondents engaged in an unauthorized transaction of 2,000 shares of Expedia in his account, and that Respondent First Montauk Securities Corporation failed to supervise its representative Respondent Sheldon Andre. Claimant maintained that due to Respondents' actions, his account suffered financial losses.

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**Claim Data**

Claim: \$12,891.00  
Interest: Unspecified  
Filing Fees: \$425.00  
Other: Unspecified

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**Award Data**

Award: \$12,891.00  
Interest: \$.00  
Filing Fees: \$212.50  
Other: \$.00

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**AWARD:** The undersigned arbitrator has decided and determined in full and final resolution of the issues submitted for determination as follows: 1) Respondents are jointly and severally liable and shall each pay to the Claimant \$6,445.50. 2) All requests for interest are denied. 3) All other relief requests are denied. 4) NASD Dispute Resolution shall retain the \$425.00 filing fee that the Claimant deposited previously. 5) Respondents are jointly and severally liable and shall pay to the Claimant \$212.50 reimbursement of one-half of the filing fee.

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**OTHER FEES:** Pursuant to Rule 10333 of the Code, Respondent First Montauk Securities Corporation has paid to NASD Dispute Resolution the \$425.00 Member Surcharge previously invoiced.

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Fred S. Pieroni

Sole Public Arbitrator

AFFIRMATION

I, Fred S. Pieroni, 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.

Fred S. Pieroni

Fred S. Pieroni

Nov. 17, 2003

Signature Date

November 28, 2003

Date of Service (For NASD-DR office use only)