

**STIPULATED BIFURCATED AWARD**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Name of Claimants

Robert A. Fabiano and Karen B. Fabiano, husband and wife

and

03-06081  
Phoenix, Arizona

Name of Respondents

Steven A. Rothstein and Jane Doe Rothstein, husband and wife,  
Robert H. Daskal and Jane Doe Daskal, husband and wife,  
William F. Groszkruger and Jane Doe Groszkruger, husband and wife, and  
Paula M LaFon and John Doe LaFon, husband and wife

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**REPRESENTATION OF PARTIES**

Robert A. Fabiano and Karen B. Fabiano (collectively, "**Claimants**") were represented by Alan Baskin and the law firm of Roshka Heyman & DeWulf, PLC.

Respondents Steven A. Rothstein ("**Respondent Rothstein**"), Robert H. Daskal ("**Respondent Daskal**"), William F. Groszkruger ("**Respondent Groszkruger**") and Paula M. LaFon ("**Respondent LaFon**") (collectively "**Respondents**") were represented by Arian Colachis and the law firm of Golbeck Roth & Colachis, PLLC.

**CASE INFORMATION**

The Statement of Claim was filed on or about July 9, 2001. The First Amended Statement of Claim was filed on or about October 19, 2001. The Submission Agreement of Claimant Robert A. Fabiano was signed on April 23, 2001. The Submission Agreement of Claimant Karen B. Fabiano was signed on March 28, 2001.

The Statement of Answer to the First Amended Statement of Claim was filed by Respondents Rothstein, Daskal, and Groszkruger on or about December 6, 2001. The Submission Agreements of Respondents Rothstein, Daskal, and Groszkruger were signed on or before January 28, 2002 by each of these Respondents individually.

**CASE SUMMARY**

Claimants alleged violations of the registration and anti-fraud provisions of the federal securities acts and the Arizona Securities Act, negligence, fraud, negligent misrepresentation, breach of fiduciary

duty, violation of the NASD and NYSE rules, fraud in the sale of merchandise, breach of contract and negligent supervision against Respondents and requested relief from these Respondents under these legal theories and as alleged control persons of respondent Mr. Dykes under the federal securities acts and the Arizona Securities Act.

Respondents denied the allegations set forth in the First Amended Statement of Claim.

### **RELIEF REQUESTED**

Claimant requested \$250,000 in compensatory damages, and consequential damages, interest, costs of suit, attorneys' fees and punitive damages in an unspecified amount according to proof at hearing.

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded their costs and attorneys' fees.

### **DISMISSAL BY PANEL ORDER**

Respondent LaFon was dismissed by order of the Panel dated September 20, 2002 in response to Respondents' motion to dismiss.

### **DISMISSAL BY STIPULATION**

Claimants and Respondents Daskal, Rothstein and Groszkruger have resolved all differences between them relating to this arbitration, and together with Respondent LaFon, hereby stipulate to the dismissal of Claimants' claims against Respondents in their entirety, bifurcation of their disputes from the above-numbered arbitration, entry of an award directing expungement of any reference to this dispute, complaint and/or arbitration in Respondents' registration records, and agree that Claimants and Respondents will each bear their own expenses and costs, including attorneys' fees, incurred herein.

### **OTHER ISSUES CONSIDERED & DECIDED**

This case was severed from Case No. 01-03641, where Respondents Daskal, LaFon, Rothstein and Groszkruger requested, and the panel granted, immediate expungement of their CRD record. The panel issued the following order:

1. Dismissal with prejudice of the claims against Respondents Daskal, Rothstein and Groszkruger;
2. That NASD Dispute Resolution sever Respondents Daskal, LaFon, Rothstein and Groszkruger request for expungement;

3. That NASD Dispute Resolution establish a new case, with a new case number, and with a caption as set forth above.
4. That the panel on the underlying case will be assigned to the new case;
5. That Respondents Daskal, LaFon, Rothstein and Groszkruger pay a \$125 filing fee within 30 days in order for NASD Dispute Resolution to process the expungement;
6. That the provisions of Rules 10314, 10321, and 10308 of the NASD Code of Arbitration Procedure do not apply; and
7. That the customer does not have to file an answer in this new claim.

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. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with the NASD Dispute Resolution (the "NASD").

### **AWARD**

After considering the Claimants' and Respondents' joint motion to bifurcate the resolution of the disputes between themselves from the above-numbered arbitration, and these parties' joint request to enter an award directing the expungement of this arbitration from Respondents' registration records, and after reviewing the pleadings and files contained herein, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent William F. Groszkruger'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 William F. Groszkruger must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Paula M. Lafon'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 Paula M. Lafon 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 Steven A. Rothstein'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 Steven A. Rothstein must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

4. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Robert H. Daskal'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 Robert H. Daskal must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
5. To the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by and between Claimants and Respondents are denied with prejudice.
6. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys fees.
7. This award is entered without prejudicing Claimants' rights to pursue their claims against any of the other named respondents in the above-numbered arbitration from which this matter was bifurcated.

#### **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:

Associated Persons' filing fee = \$125.00

#### **Fee Summary**

Respondents, Daskal, Rothstein, Groszkruger and LaFon, shall be and hereby are jointly and severally liable for:

<u>Filing Fee</u>	= \$125.00
Balance Due NASD Dispute Resolution	= \$125.00

**All balances are due to NASD Dispute Resolution**

**ARBITRATION PANEL**

John L. Worcester - Public Arbitrator, Presiding Chair  
Beryl I. Dulsky, Esq. - Public Arbitrator  
Paul C. Bookidis - Non-Public Arbitrator

Concurring Arbitrators:

/s/ John L. Worcester  
John L. Worcester  
Public Arbitrator, Presiding Chair

September 12, 2003  
Signature Date

/s/ Beryl I. Dulsky  
Beryl I. Dulsky, Esq.  
Public Arbitrator

September 14, 2003  
Signature Date

/s/ Paul C. Bookidis  
Paul C. Bookidis  
Non-Public Arbitrator

September 11, 2003  
Signature Date

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Service Date

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NASD Dispute Resolution, Inc.  
Arbitration No. 03-06081  
Award Page 5 of 5

All balances are due to NASD Dispute Resolution

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John L. Worcester - Public Arbitrator, Presiding Chair  
Beryl I. Dulsky, Esq. - Public Arbitrator  
Paul C. Bookidis - Non-Public Arbitrator

Concurring Arbitrators:

  
John L. Worcester  
Public Arbitrator, Presiding Chair

9/12/03  
Signature Date

Beryl I. Dulsky, Esq.  
Public Arbitrator

Signature Date

Paul C. Bookidis  
Non-Public Arbitrator

Signature Date

Service Date

NASD Dispute Resolution, Inc.  
Arbitration No. 03-06081  
Award Page 5 of 5

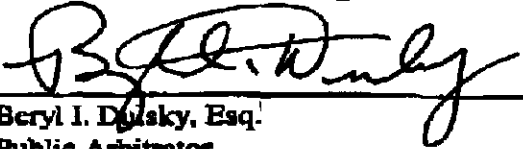
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Beryl I. Dulskey, Esq. - Public Arbitrator  
Paul C. Bookidis - Non-Public Arbitrator

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Public Arbitrator

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Paul C. Bookidis  
Non-Public Arbitrator

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Signature Date

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NASD Dispute Resolution, Inc.  
Arbitration No. 03-06081  
Award Page 5 of 5

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Beryl I. Dulsky, Esq. - Public Arbitrator  
Paul C. Bookidis - Non-Public Arbitrator

Concurring Arbitrators:

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Public Arbitrator, Presiding Chair

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Beryl I. Dulsky, Esq.  
Public Arbitrator

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Signature Date

*Paul C. Bookidis*  
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Paul C. Bookidis  
Non-Public Arbitrator

*9-11-03*  
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Signature Date

*9-11-03*  
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Service Date