

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

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In the Matter of the Arbitration Between:

Robert R. Spencer and Margaret B. Spencer, Claimants v. Piper Jaffray & Co., Michael G. Santoro, and James T. Chandler, Respondents

Case Number: 04-00664

Hearing Site: San Diego, California

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

**REPRESENTATION OF PARTIES**

For Claimants:

Jack M. Merritts, Esq.  
Burns, Wall, Smith and Mueller, P.C.  
Denver, Colorado

For Respondents:

Kelly Moynihan, Esq.  
Keesal, Young & Logan  
San Francisco, California

**CASE INFORMATION**

Statement of Claim filed: February 2, 2004

Amended Statement of Claim filed: March 15, 2004

Claimants' Joint Uniform Submission Agreement signed: February 2, 2004

Joint Statement of Answer filed by Respondents: April 2, 2004

Respondent Piper Jaffray & Co.'s Uniform Submission Agreement signed: February 20, 2004

Respondent Michael G. Santoro's Uniform Submission Agreement signed: March 28, 2004

Respondent James T. Chandler's Uniform Submission Agreement signed: March 26, 2004

### **CASE SUMMARY**

In the Statements of Claim, Claimants alleged breach of fiduciary duty and fraud, involving a Gabelli Equity Trust and stock in WorldCom MCI, WorldCom, and Nextel.

Respondents denied the allegations of wrongdoing set forth in the Claimants' Statements of Claim and asserted various affirmative defenses.

### **RELIEF REQUESTED**

In the Statements of Claim, Claimants requested \$344,418.00 in compensatory damages, interest at the Minnesota statutory rate, and costs including filing fees, forum fees, attorney's fees, witness fees, and production fees.

Respondents requested dismissal of the Claimants' Statement of Claim in its entirety and costs.

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

On March 15, 2004, Claimants filed an Amended Statement of Claim pursuant to the NASD Code of Arbitration Procedure Rule 10328(a).

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, testimony, and evidence presented at the hearing, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Claimants' claims are denied in their entirety.
- 2) Respondent Michael G. Santoro did not engage in unauthorized trading as alleged by Claimants.
- 3) The claims and allegations contained in Claimants' Statement of Claim and Amended Statement of Claim against Respondents Michael G. Santoro and James T. Chandler are false.
- 4) The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Michael G. Santoro's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09 and 99-54, Respondent Michael G. Santoro must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 5) The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent James T. Chandler's registration records maintained by the CRD, with the understanding that pursuant to NASD Notice to Members 99-09 and 99-54, Respondent James T. Chandler must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 6) The parties shall bear their respective costs, including attorney's fees.
- 7) All other relief requested and not expressly granted is denied.

### **FEES**

Pursuant to the 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	= \$ 300.00
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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 Piper Jaffray & Co. is a party and the following fees are assessed:

Member Surcharge	= \$ 1,700.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$ 2,750.00
<b>Total Member Fees</b>	<b>= \$ 5,200.00</b>

### **Forum Fees and Assessments**

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair/Panel. The following fees are assessed:

2 Pre-hearing conference sessions with a single arbitrator @ \$450.00/session	= \$ 900.00
Pre-hearing conferences:	
November 15, 2005	1 session
December 20, 2005	1 session
1 Pre-hearing conference session with the Panel @ \$1,125.00/session	= \$ 1,125.00
Pre-hearing conference:	
August 10, 2005	1 session
8 Hearing sessions @ \$1,125.00/session	= \$ 9,000.00
Hearings:	
January 17, 2006	2 sessions
January 18, 2006	2 sessions
January 19, 2006	2 sessions
January 20, 2006	2 sessions
<b>Total Forum Fees</b>	<b>= \$11,025.00</b>

1. The Panel assessed \$5,512.50 of the forum fees jointly and severally to Claimants.
2. The Panel assessed \$5,512.50 of the forum fees jointly and severally to Respondents.

**Fee Summary**

1. Claimants are charged jointly and severally with the following fees and costs:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 5,512.50
Total Fees	= \$ 5,812.50
Less payments	= \$(1,425.00)
Balance Due NASD Dispute Resolution	= \$ 4,387.50

2. Respondent Piper Jaffray & Co. is charged with the following fees and costs:

Member Fees	= \$ 5,200.00
Less payments	= \$(5,200.00)
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents are charged jointly and severally with the following fees and costs:

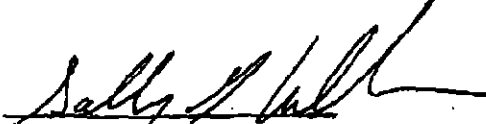
Forum Fees	= \$ 5,512.50
Less payments	= \$( 0.00)
Balance Due NASD Dispute Resolution	= \$ 5,512.50

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.

**ARBITRATION PANEL**

Sally G. Williams	-	Public Arbitrator, Presiding Chair
Thomas Erique DuVoisin	-	Public Arbitrator
David Charles Kauffman	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

  
Sally G. Williams  
Chair, Public Arbitrator

1-25-2006  
Signature Date

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Thomas Erique DuVoisin  
Public Arbitrator

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

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David Charles Kauffman  
Non-Public Arbitrator

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

1/27/06  
Date of Service

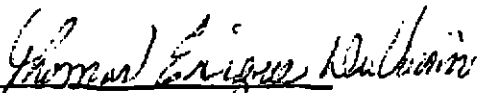
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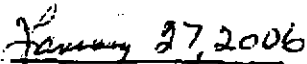
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Chair, Public Arbitrator


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Chair, Public Arbitrator

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Signature Date

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Thomas Erique DuVoisin  
Public Arbitrator

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Signature Date

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David Charles Kauffman  
Non-Public Arbitrator

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01/27/06  
Signature Date

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1/27/06  
Date of Service