

**Stipulated Award  
NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Ken E. Parker, Claimant v. Anil Ishwar Jethmal and Gilford Securities, Inc.,  
Respondents

Anil Ishwar Jethmal and Gilford Securities, Inc., Counter-Claimants v. Ken E. Parker,  
Counter-Respondent

Case Number: 04-02237

Hearing Site: San Francisco, California

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

**REPRESENTATION OF PARTIES**

For Claimant and Counter-Respondent:

Thomas Porter, Esq.  
Law Offices of James Jay Seltzer  
Emeryville, California

For Respondents and Counter-Claimants:

Michael Kalmus, Esq.  
Law Office of Michael Kalmus  
New York, New York

**CASE INFORMATION**

Statement of Claim filed: March 31, 2004

Claimant's Uniform Submission Agreement signed: March 24, 2004

Joint Statement of Answer and Counterclaim filed by Respondents Anil Ishwar Jethmal  
and Gilford Securities, Inc. ("Gilford"): June 24, 2004

Respondent Gilford's Uniform Submission Agreement signed: June 24, 2004

Respondent Anil Ishwar Jethmal's Uniform Submission Agreement signed: April 29,  
2004

**CASE SUMMARY**

Claimant asserted the following causes of action in connection with the purchases and  
sales of Intervoice Brite, Inc.: suitability; misrepresentation and omissions of fact;

unauthorized trading; negligent misrepresentation; breach of fiduciary duty; failure to supervise; breach of contract; unfair business practices; violation of the Consumer Legal Remedies Act; and negligence.

Unless specifically admitted in its Answer with Counterclaim, Respondents denied the allegations of wrongdoing set forth in the Statement of Claim and asserted the following defenses: Claimant is a knowledgeable experienced investor who authorized the transactions now complained of; Claimant failed to state a cause of action; waiver and estoppel; assumption of risk; ratification; statute of limitations; and failure to mitigate damages.

Respondents asserted a Counterclaim based upon Claimant's failure to pay the debit balance in his margin account.

### **RELIEF REQUESTED**

Claimant requested:

1. Compensatory damages in excess of \$75,000.00;
2. Applicable interest;
3. Disgorgement and/or restitution; and
4. Attorney's fees, forum fees and costs; and
5. Such other and further relief as may be reasonable and just under the circumstances.

Respondents requested dismissal of the Statement of Claim in its entirety and filed a Counterclaim requesting \$12,418.76.

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

On April 15, 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 Stipulated Award in this matter may be executed in counterpart copies.

### **AWARD**

On April 19, 2006, the parties entered into an agreement to present to the Panel a Stipulated Award. Now, in lieu of a hearing and upon motion of both parties for entry of an Award, the written stipulation thereto, the Panel grants the motion and enters this Award granting the following relief:

1. The parties have entered into a confidential settlement agreement.
2. The Claimant has dismissed all claims with prejudice against Respondents.
3. Respondents have dismissed the counterclaim with prejudice against Claimant.
4. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Anil Ishwar Jethmal's registration record maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09 and 99-54, Respondent Anil Ishwar Jethmal must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
5. All other requests for relief are hereby 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 | = \$225.00 |
| Counterclaim filing fee  | = \$750.00 |

#### **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 Gilford is a party and the following fees are assessed:

|                          |                     |
|--------------------------|---------------------|
| Member Surcharge         | = \$1,100.00        |
| Pre-Hearing Process Fee  | = \$ 750.00         |
| Hearing Process Fee      | = \$1,700.00        |
| <u>Total Member Fees</u> | <u>= \$3,550.00</u> |

### **Adjournment Fees**

The Following adjournment fees are assessed:

The Panel granted Respondents' request of October 11, 2005, to postpone the November 8-10, 2005 hearing dates and ruled that the parties shall split the \$750.00 postponement fee as follows: 50% to Claimant; and 50% to Respondents, jointly and severally.

### **Forum Fees and Assessments**

The Panel assessed forum fees for each session conducted or each decision rendered on a discovery-related motion on the papers. A session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

(3) Pre-hearing conference sessions with the Panel @ \$750.00/session = \$2,250.00

|  |           |
|--|-----------|
| Pre-hearing conferences: February 24, 2005 | 1 session |
| November 8, 2005                           | 1 session |
| August 7, 2006                             | 1 session |

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|                         |                     |
|-------------------------|---------------------|
| <b>Total Forum Fees</b> | <b>= \$2,250.00</b> |
|-------------------------|---------------------|

The Panel assessed \$1,125.00 in forum fees to Claimant Ken E. Parker.

The Panel assessed \$1,125.00 in forum fees jointly and severally to Respondents Anil Ishwar Jethmal and Gilford.

### **Fee Summary**

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

|   |                     |
|---|---------------------|
| Initial Filing Fee                        | = \$ 225.00         |
| Adjournment Fee                           | = \$ 375.00         |
| Forum Fees                                | = \$ 1,125.00       |
| <hr/> Total Fees                          | <hr/> = \$ 1,725.00 |
| Less Payments                             | = \$(1,250.00)      |
| <hr/> Balance Due NASD Dispute Resolution | <hr/> = \$ 475.00   |

2. Respondent Gilford is charged with the following fees and costs:

|                           |                 |
|---------------------------|-----------------|
| Member Fees               | = \$ 3,550.00   |
| Less Payments             | = \$( 3,550.00) |
| <hr/> Balance Due NASD-DR | <hr/> = \$ 0.00 |

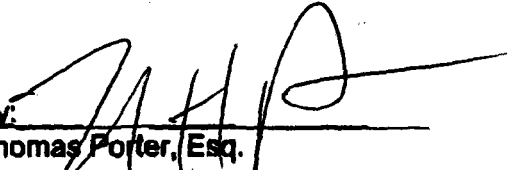
3. Respondents Anil Ishwar Jethmal and Gilford are jointly and severally charged with the following fees and costs:

|                                      |                 |
|--------------------------------------|-----------------|
| Counterclaim Filing Fee              | = \$ 750.00     |
| Adjournment Fee                      | = \$ 375.00     |
| Forum Fees                           | = \$ 1,125.00   |
| Total Fees                           | = \$ 2,250.00   |
| Less Payments by Anil Ishwar Jethmal | = \$( 375.00)   |
| Less Payments by Gilford             | = \$( 2,400.00) |
| Refund Due Gilford                   | = \$( 525.00)   |

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

Parties' Signatures

Claimant, Ken E. Parker

By:   
Thomas Porter, Esq.

8/18/06  
Signature Date

Respondents Anil Ishwar Jethmal  
and Gilford Securities, Inc.

By: \_\_\_\_\_  
Michael Kalmus, Esq.

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

3. Respondents Anil Ishwar Jethmal and Gilford are jointly and severally charged with the following fees and costs:

|                                      |                        |
|--------------------------------------|------------------------|
| Counterclaim Filing Fee              | = \$ 750.00            |
| Adjournment Fee                      | = \$ 375.00            |
| Forum Fees                           | = \$ 1,125.00          |
| <u>Total Fees</u>                    | <u>= \$ 2,250.00</u>   |
| Less Payments by Anil Ishwar Jethmal | = \$( 375.00)          |
| <u>Less Payments by Gilford</u>      | <u>= \$( 2,400.00)</u> |
| <u>Refund Due Gilford</u>            | <u>= \$( 525.00)</u>   |

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

**Parties' Signatures**

Claimant, Ken E. Parker

By:  
Thomas Porter, Esq.

Signature Date

Respondents Anil Ishwar Jethmal  
and Gilford Securities, Inc.


By:   
Michael Kalmus, Esq.

8/15/06  
Signature Date

**ARBITRATION PANEL**

|                        |   |                                    |
|------------------------|---|------------------------------------|
| Benjamin Slomoff, M.A. | - | Public Arbitrator, Presiding Chair |
| Peter Kassel           | - | Public Arbitrator                  |
| E. Duane Stephens      | - | Non-Public Arbitrator              |

**Concurring Arbitrators' Signatures**

  
Benjamin Slomoff, M.A.  
Chair, Public Arbitrator

8/28/06  
Signature Date

\_\_\_\_\_  
Peter Kassel  
Public Arbitrator

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

\_\_\_\_\_  
E. Duane Stephens  
Non-Public Arbitrator

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

\_\_\_\_\_  
Date of Service

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|                        |   |                                    |
|------------------------|---|------------------------------------|
| Benjamin Slomoff, M.A. | - | Public Arbitrator, Presiding Chair |
| Peter Kassel           | - | Public Arbitrator                  |
| E. Duane Stephens      | - | Non-Public Arbitrator              |

**Concurring Arbitrators' Signatures**

\_\_\_\_\_  
Benjamin Slomoff, M.A.  
Chair, Public Arbitrator

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

\_\_\_\_\_  
Peter Kassel  
Public Arbitrator

\_\_\_\_\_  
09/07/06  
Signature Date

\_\_\_\_\_  
E. Duane Stephens  
Non-Public Arbitrator

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

\_\_\_\_\_  
9/8/06  
Date of Service



**ARBITRATION PANEL**

|                        |   |                                    |
|------------------------|---|------------------------------------|
| Benjamin Slomoff, M.A. | - | Public Arbitrator, Presiding Chair |
| Peter Kassel           | - | Public Arbitrator                  |
| E. Duane Stephens      | - | Non-Public Arbitrator              |

**Concurring Arbitrators' Signatures**

Benjamin Slomoff, M.A.  
Chair, Public Arbitrator

Signature Date

Peter Kassel  
Public Arbitrator

Signature Date

  
E. Duane Stephens  
Non-Public Arbitrator

Signature Date

9/8/06  
Date of Service