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

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In the Matter of the Arbitration Between:

Name of the Claimant  
Atlantic Custodians, SA

Case Number: 04-04725

Name of the Respondent  
ABN AMRO Incorporated

Hearing Site: Boca Raton, Florida

Name of the Third Party Respondent  
Segoes Securities, Ltd.

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Nature of the Dispute: Customer vs. Member vs. Non-Member.

**REPRESENTATION OF PARTIES**

For Atlantic Custodians, SA, hereinafter referred to as "Claimant": Philip J. Snyderburn, Esq., Snyderburn, Rishoi & Swann, Maitland, Florida.

For ABN AMRO Incorporated, hereinafter referred to as "Respondent": Patrick D. Bonner, Jr., Esq., Menz Bonner & Komar LLP, New York, New York.

For Segoes Securities, Ltd., hereinafter referred to as "Third Party Respondent": Sarah L. Knapp, Esq., Baach Robinson & Lewis PLLC, Washington, DC.

**CASE INFORMATION**

Statement of Claim filed on or about: June 30, 2004.

Claimant signed the Uniform Submission Agreement: May 17, 2004.

Statement of Answer, Motion to Dismiss, Counterclaim and Third Party Claim filed by Respondent on or about: October 1, 2004.

Respondent signed the Uniform Submission Agreement: September 23, 2004.

Answer to Counterclaim filed by Claimant on or about: November 1, 2004.

Reply to Answer of Claimant filed by Respondent on or about: November 15, 2004.

Answer of Third Party Respondent filed on or about: January 10, 2005.

Third Party Respondent did not file an executed Uniform Submission Agreement.

**CASE SUMMARY**

Claimant asserted the following causes of action: negligence and breach of contract. The causes of action relate to the settlement of a trade involving a 6,000,000 share block of Global Link Communications Ltd.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses. Additionally, Respondent asserted a Counterclaim against Claimant for indemnification, contribution and breach of contract.

Unless specifically admitted in its Answer, Claimant denied the allegations made in the Counterclaim.

Unless specifically admitted in its Answer, Third Party Respondent denied the allegations made in the Third Party Claim and adopted as its own the Answer of Claimant to the Counterclaim of Respondent.

### **RELIEF REQUESTED**

Claimant requested the following: compensatory damages in the combined amount of \$1,010,000.00, of which \$200,000.00 represents lost profits and \$810,000.00 represents the return of Claimant's deposit currently being held by Respondent; an unspecified amount of punitive damages; interest; and, costs of these proceedings, including attorneys' fees, filing fees, forum fees and expert witness fees. Claimant further requested that Respondent's Counterclaim be dismissed or denied by the Panel.

Respondent requested indemnification and contribution in an amount equal to any award to Claimant, or that Claimant's claim be dismissed. Respondent further requested that it be awarded its reasonable attorneys' fees and costs incurred in connection with this matter.

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

Third Party Respondent is a non-member of NASD but was initially required to submit to arbitration with respect to the Third Party Claim pursuant to the February 4, 2003 agreement entered into between Respondent and Third Party Respondent, and, having answered the Third Party Claim, is bound by the determination of the Panel on all issues submitted prior to May 11, 2005.

On or about December 9, 2004, the Panel issued an Order denying Respondent's Motion to Dismiss, stating that the motion was based upon facts to be proven at the evidentiary hearing.

On or about January 10, 2005, Claimant filed a Consent of Initial Claimant to Extend the Answer of Third Party Respondent. On or about January 13, 2005, the Panel issued an Order directing Respondent to advise the Panel, in writing, whether it has been prejudiced by the untimely filing by Third Party Respondent of its Answer to Respondent's Third Party Claim. On or about January 20, 2005, Respondent filed correspondence for the Panel stating that, as the "initial Claimant" of the Third Party Claim, Respondent must consent to Third Party Respondent's request for an extension of time to respond thereto. Notwithstanding the foregoing, Respondent further stated that it would defer to the Panel's determination on this issue. On or about February 10, 2005, the Panel issued an Order accepting the Answer submitted by Third Party Respondent.

On May 11, 2005, Third Party Respondent filed for protection pursuant to Chapter 11 of the United States Bankruptcy Code in the U.S. Bankruptcy Court for the Southern District of Florida ("Bankruptcy Court"). That relief was granted by the Bankruptcy Court through a Temporary Restraining Order issued on May 11, 2005, a Preliminary Injunction issued on May 17, 2005, and an Amended Preliminary Injunction issued on July 20, 2005. As such, as of

May 11, 2005, all proceedings with respect to Third Party Respondent were stayed and the Panel made no determinations with respect to Third Party Respondent on or after May 11, 2005.

During the evidentiary hearing, on November 2, 2006, Respondent reasserted its Motion to Dismiss in which it alleged the following: (1) Claimant does not have standing to bring this action against Respondent; (2) a purported assignment of claims to Claimant by Third Party Respondent is not valid; (3) the contract at issue does not confer any right on Claimant; (4) Claimant was not an intended third party beneficiary of the contract; (5) Respondent owed no duty to Claimant; and (6) the negligence claim is duplicative of the contract claim. The Panel heard oral arguments by counsel for Claimant and Respondent and provided the parties with a full opportunity to be heard on the motion. At the evidentiary hearing, Claimant's counsel advised the Panel that following its review of Respondent's written Motion to Dismiss, Claimant's counsel would determine whether to submit a written response or respond orally. Claimant's counsel responded orally and did not request an opportunity to respond in writing. Following careful consideration, the Panel unanimously granted Respondent's Motion to Dismiss.

The parties have agreed that the Award in this matter may be entered in counterpart copies or that a signed handwritten Award may be entered.

### **AWARD**

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Claimant's claims are dismissed with prejudice.

Respondent's Counterclaim is rendered moot by virtue of the dismissal of Claimant's claims.

Any and all claims for relief not specifically addressed herein, including Claimant's requests for punitive damages and attorneys' fees and Respondent's request for attorneys' fees, are denied.

### **FEES**

Pursuant to the NASD Code of Arbitration Procedure (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 = \$ 500.00

Counter/Third Party claim filing fee = \$2,000.00

#### **Member Fees**

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person at the time of the events giving rise to the dispute. Accordingly, Respondent is a party to this dispute and was a member of NASD at the time the following fees were assessed:

Member surcharge	= \$2,800.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$5,000.00
Total Member Fees	= \$8,550.00

### **Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:  
No adjournment fees were incurred in this matter.

### **Three-Day Cancellation Fees**

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session:

No cancellation fees were assessed in this matter.

### **Injunctive Relief Fees**

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the Panel.

No injunctive relief fees were incurred during this proceeding.

### **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 the Panel @ \$1,200.00	= \$2,400.00
Pre-hearing conferences: December 9, 2004	1 session
May 19, 2006	1 session
Four (4) Hearing sessions with the Panel @ \$1,200.00	= \$4,800.00
Hearing Dates: November 2, 2006	2 sessions
November 3, 2006	2 sessions
Total Forum Fees	= \$7,200.00

The Panel has assessed \$3,600.00 of the forum fees to Claimant.  
The Panel has assessed \$3,600.00 of the forum fees to Respondent.

### **Administrative Costs**

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred during this proceeding.

**Fee Summary**

Claimant is solely liable for:

Initial Filing Fee	= \$ 500.00
Forum Fees	= \$ 3,600.00
Total Fees	= \$ 4,100.00
Less payments	= \$ 1,700.00
Balance Due NASD Dispute Resolution	= \$ 2,400.00

Respondent is solely liable for:

Member Fees	= \$ 8,550.00
Counter/Third Party Claim Filing Fee	= \$ 2,000.00
Forum Fees	= \$ 3,600.00
Total Fees	= \$14,150.00
Less payments	= \$12,500.00
Balance Due NASD Dispute Resolution	= \$ 1,650.00

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

**ARBITRATION PANEL**

Steven I. Weinberger, Esq.	-	Public Arbitrator, Presiding Chairperson
Burton L. Ansell, Esq.	-	Public Arbitrator
Thomas C. Krumenacker	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

<u>/s/</u>	<u>November 8, 2006</u>
Steven I. Weinberger, Esq.	Signature Date
Public Arbitrator, Presiding Chairperson	

<u>/s/</u>	<u>November 8, 2006</u>
Burton L. Ansell, Esq.	Signature Date
Public Arbitrator	

<u>/s/</u>	<u>November 8, 2006</u>
Thomas C. Krumenacker	Signature Date
Non-Public Arbitrator	

November 9, 2006  
Date of Service (For NASD Dispute Resolution office use only)

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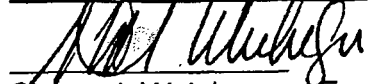
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*Thomas C. Krumenacker*

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*Non-Public Arbitrator*

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Public Arbitrator, Presiding Chairperson

11/8/06

Signature Date

Burton L. Ansell, Esq.

Public Arbitrator

Signature Date

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NASD Dispute Resolution  
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Award Page 5

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 Public Arbitrator

11/08/06  
 Signature Date

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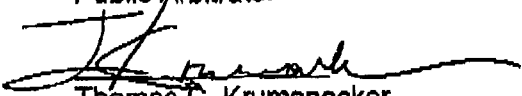
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