

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Brian and Regina Bergner (Claimants) v. J.B. Hanauer & Co., and Chris J. Plechy (Respondents)

Case Number: 04-06129

Hearing Site: Newark, New Jersey

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

REPRESENTATION OF PARTIES

Claimants Brian and Regina Bergner hereinafter collectively referred to as "Claimants": Glen J. Vida, Esq., Springfield, NJ.

Respondents J.B. Hanauer & Co. ("Hanauer"), and Chris J. Plechy ("Plechy"), hereinafter collectively referred to as "Respondents": Lauren H. Lezak, Esq., Dillon, Bitar & Luther, LLC, Morristown, NJ.

CASE INFORMATION

Statement of Claim filed on or about: August 27, 2004.

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

Joint Statement of Answer filed by Respondents on or about: January 27, 2005.

Respondent Hanauer signed the Uniform Submission Agreement: December 6, 2004.

Respondent Plechy signed the Uniform Submission Agreement: January 27, 2005.

CASE SUMMARY

Claimants asserted the following causes of action: breach of contract; errors/charges, failure to supervise; negligence; consumer fraud; common law fraud; failure to execute; misrepresentation; and omission of facts. The causes of action relate to the common stock of Pfizer, Inc.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$810,000.00; punitive and treble damages in the amount of \$2,430,000.00 plus attorneys' fees, witness and production fees, expert

fees and all other costs arising from this arbitration.

Respondents requested that the Panel dismiss the Statement of Claim in its entirety; assess all costs and fees against the Claimants; award attorneys' fees to the Respondents; enter an order of expungement of this arbitration from Respondent Chris J. Plechy's CRD record because they are false and/or mistaken; and such other and further relief as the Panel deems appropriate and just.

OTHER ISSUES CONSIDERED AND DECIDED

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

1. Respondents are jointly and severally liable for and shall pay to Claimants compensatory damages in the amount of \$213,667.00.
2. Any and all relief not specifically addressed herein, including treble damages, 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 | = \$ 600.00 |
|--------------------------|-------------|

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, J.B. Hanauer & Co., is a party.

| | |
|-------------------------|---------------|
| Member surcharge | = \$ 3,350.00 |
| Pre-hearing process fee | = \$ 750.00 |
| Hearing process fee | = \$ 5,000.00 |
| Total Member Fees | = \$ 9,100.00 |

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:

| | |
|---|-------------|
| One (1) Pre-hearing session with a single arbitrator @ \$450.00 | = \$ 450.00 |
| Pre-hearing conference: August 30, 2005 1 session | |

One (1) Pre-hearing sessions with Panel @ \$1,200.00 per session = \$ 1,200.00
Pre-hearing conferences: April 27, 2005 1 session

Six (6) Hearing sessions @ \$1,200.00 per session = \$ 7,200.00
Hearing Dates: September 14, 2005 2 sessions
September 15, 2005 2 sessions
September 26, 2005 2 sessions

Total Forum Fees = \$ 8,850.00

1. The Panel has assessed \$4,425.00 of the forum fees against Claimants.
2. The Panel has assessed \$4,425.00 of the forum fees jointly and severally against Respondents.

Fee Summary

1. Claimants are liable for:

| | |
|-------------------------------------|---------------|
| Initial Filing Fee | = \$ 600.00 |
| Forum Fees | = \$ 4,425.00 |
| Total Fees | = \$ 5,025.00 |
| Less payments | = \$ 1,800.00 |
| Balance Due NASD Dispute Resolution | = \$ 3,225.00 |
2. Respondent J.B. Hanauer & Co. is solely liable for:

| | |
|-------------------------------------|---------------|
| Member Fees | = \$ 9,100.00 |
| Total Fees | = \$ 9,100.00 |
| Less payments | = \$ 9,100.00 |
| Balance Due NASD Dispute Resolution | = 0.00 |
3. Respondents J.B. Hanauer & Co. and Chris J. Plechy are jointly and severally liable for:

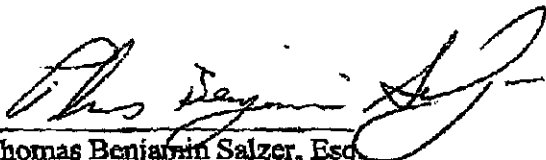
| | |
|-------------------------------------|---------------|
| Forum Fees | = \$ 4,425.00 |
| Total Fees | = \$ 4,425.00 |
| Less payments | = \$ 0.00 |
| Balance Due NASD Dispute Resolution | = \$ 4,425.00 |

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

ARBITRATION PANEL

| | | |
|------------------------------|---|--|
| Thomas Benjamin Salzer, Esq. | - | Public Arbitrator, Presiding Chairperson |
| Bernard M. Levine | - | Public Arbitrator |
| Jettie K. Thomas, Esq. | - | Non-Public Arbitrator |

Concurring Arbitrators' Signatures



Thomas Benjamin Salzer, Esq.
Public Arbitrator, Presiding Chairperson

3 Oct. 05

Signature Date

Bernard M. Levine
Public Arbitrator

Signature Date

Jettie K. Thomas, Esq.
Non-Public Arbitrator

Signature Date

October 6, 2005

Date of Service (For NASD Dispute Resolution use only)

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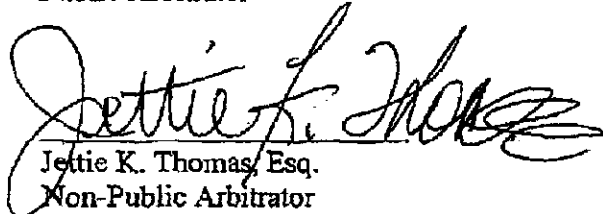
Concurring Arbitrators' Signatures

Thomas Benjamin Salzer, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Bernard M. Levine
Public Arbitrator

Signature Date


Jettie K. Thomas, Esq.
Non-Public Arbitrator

10/3/05
Signature Date

October 6, 2005

Date of Service (For NASD Dispute Resolution use only)