

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

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In the Matter of the Arbitration Between:

Nyfix Millennium, LLC (Claimant) v. Paravane Partners, LLC, and Leeb Brokerage Services, Inc. (Respondents)

Case Number: 04-07856

Hearing Site: New York, New York

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Nature of the Dispute: Member v. Member

**REPRESENTATION OF PARTIES**

Claimant Nyfix Millennium, LLC ("Claimant"): Gerard P. Finn, Esq., Bingham McCutchen, LLP, Washington, DC.

Respondent Paravane Partners, LLC ("Paravane Partners"): Steven D. Oppenheim, Esq., Faust Rabbach & Oppenheim, LLP, New York, NY.

Respondent Leeb Brokerage Services, Inc. ("Leeb Brokerage"): Richard Roth, Esq., The Roth Law Firm, New York, NY.

**CASE INFORMATION**

Statement of Claim filed on or about: November 10, 2004.

Claimant signed the Uniform Submission Agreement: November 10, 2004.

Statement of Answer and Cross-Claim filed by Paravane Partners on or about: February 3, 2005.

Paravane Partners signed the Uniform Submission Agreement: February 8, 2005.

Statement of Answer filed by Leeb Brokerage on or about: January 21, 2005.

Answer to Cross-Claim and Cross-Claim filed by Leeb Brokerage on or about: April 20, 2005.

Leeb Brokerage did not sign the Uniform Submission Agreement.

**CASE SUMMARY**

Claimant asserted the following causes of action: breach of contract and collection.

Unless specifically admitted in its Answer, Paravane Partners denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

Unless specifically admitted in its Answer, Leeb Brokerage denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

In its Cross-Claim Paravane Partners asserted the following cause of action against Leeb Brokerage: breach of contract.

Unless specifically admitted in its Answer to the Cross-Claim, Leeb Brokerage denied the allegations made in the Cross-Claim and asserted various affirmative defenses.

In its Cross-Claim, Leeb Brokerage asserted the following causes of action against Paravane Partners: tortious interference with contract; breach of contract; conversion; implied indemnity; equitable indemnification; contribution, and negligence.

Unless specifically admitted in its Answer to the Cross-Claim, Paravane Partners denied the allegations made in the Cross-Claim and asserted various affirmative defenses.

### **RELIEF REQUESTED**

Claimant requested compensatory damages in the amount of \$98,467.00, costs, expenses, and such other relief that may be awarded by the Panel.

Paravane Partners requested dismissal of the Statement of Claim in its entirety and dismissal of Leeb Brokerage's Cross-Claim. In its Cross-Claim Paravane Partners requested compensatory damages in the amount of \$371,697.00, interest, punitive damages, dismissal of the Statement of Claim in its entirety and that the Panel order Leeb Brokerage to pay Claimant's claims directly.

Leeb Brokerage requested dismissal of the Statement of Claim in its entirety and denial of Paravane Partners' Cross-Claim. In its Cross-Claim Leeb Brokerage requested compensatory damages in the amount of \$1,185,000.00, additional compensatory damages of \$1,000,000.00, punitive damages to be determined by the Panel, pre-award interest, post-award interest, attorneys' fees, and costs.

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

Leeb Brokerage did not file with NASD Dispute Resolution ("NASD-DR") a properly executed submission agreement but is required to submit to arbitration pursuant to the Code and having answered the claim, is bound by the determination of the Panel on all issues submitted.

Respondent Leeb Brokerage filed a Motion to Assert a Third-Party Claim against Tradetrek Securities. After due deliberation, the Panel determined to deny Leeb Brokerage's Motion.

By letter dated February 16, 2006, Claimant advised NASD-DR that it settled its claims against Paravane Partners and Leeb Brokerage.

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**

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 an entry of an award, the written stipulation thereto, the Panel grants the motion and enters this award granting the following relief:

1. The Statement of Claim is dismissed in its entirety with prejudice.
2. The Cross-Claim of Paravane Partners is dismissed in its entirety with prejudice.
3. The Cross-Claim of Leeb Brokerage is dismissed in its entirety with prejudice.
4. In accordance with paragraphs 2 and 3 of the confidential settlement agreement entered into between Claimant and Paravane Partners, Paravane Partners shall make settlement payments to the Claimant.
5. In accordance with paragraphs 2 and 3 of the confidential settlement agreement entered into between Claimant and Leeb Brokerage, Leeb Brokerage shall make settlement payments to the Claimant.
6. Paravane Partners and Leeb Brokerage shall pay to the Claimant all fees, costs and expenses including but not limited to attorneys' fees, incurred by Claimant in seeking to confirm this Award, obtain judgment on any confirmation order, and execute such judgment except as otherwise stated in this award.
7. Any and all relief not specifically addressed herein, including punitive 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	= \$ 1,000.00
Cross-Claim and Third-Party Claim (Leeb Brokerage)	= \$ 2,000.00
Cross-Claim (Paravane Partners)	= \$ 300.00

**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. In this matter, Nyfix Millennium, LLC and Leeb Brokerage Services, Inc., are parties.

**Nyfix Millennium, LLC**

Member Surcharge	= \$ 1,700.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$ 5,000.00

**Leeb Brokerage Services, Inc.**

Member Surcharge	= \$ 1,700.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$ 5,000.00

**Adjournment Fees**

The following adjournment fees are assessed:

December 6, 7, 8, 2005 adjournment requested by Claimant, Paravane Partners and Leeb Brokerage.

	= \$ 1,200.00
Claimant's share	= \$ 400.00
Paravane Partners' share	= \$ 400.00
Leeb Brokerage's share	= \$ 400.00

**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:

December 6, 7, 8, 2005 adjournment requested by Claimant, Paravane Partners and Leeb Brokerage

	= \$ 300.00
Claimant's share	= \$ 100.00
Paravane Partners' share	= \$ 100.00
Leeb Brokerage's share	= \$ 100.00

**Forum Fees and Assessments**

The Panel assesses forum fees for each hearing session conducted. A hearing 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. Forum fees associated with these proceedings are:

One (1) Pre-hearing conference session with a single arbitrator @ \$450.00 per session = \$ 450.00  
Pre-hearing conference: November 10, 2005 1 session

Three (3) Pre-hearing conference sessions with the Panel @ \$1,200.00 per session = \$ 3,600.00

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Pre-hearing conferences:	April 11, 2005	1 session
	May 6, 2005	1 session
	June 3, 2005	1 session

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Total Forum Fees	= \$ 4,050.00
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1. The Panel has assessed \$400.00 of the forum fees against the Claimant.
2. The Panel has assessed \$400.00 of the forum fees against Paravane Partners.
3. The Panel has assessed \$400.00 of the forum fees against Leeb Brokerage.
4. In accordance with Rule 10306 of the NASD Code of Arbitration Procedure, Claimant has been assessed \$950.00 of the forum fees.
5. In accordance with Rule 10306 of the NASD Code of Arbitration Procedure, Paravane Partners has been assessed \$950.00 of the forum fees.
6. In accordance with Rule 10306 of the NASD Code of Arbitration Procedure, Leeb Brokerage has been assessed \$950.00 of the forum fees.

**Fee Summary**

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 1,000.00
Member Fees	= \$ 7,450.00
Adjournment Fee	= \$ 400.00
Three Days Cancellation Fees	= \$ 100.00
<u>Forum Fees</u>	<u>= \$ 1,350.00</u>
Total Fees	= \$ 10,300.00
<u>Less payments</u>	<u>= \$ 5,300.00</u>
Balance Due NASD Dispute Resolution	= \$ 5,000.00

2. Paravane Partners is solely liable for:

Cross-Claim Filing Fee	= \$ 300.00
Adjournment Fee	= \$ 400.00
Three Days Cancellation Fees	= \$ 100.00
<u>Forum Fees</u>	<u>= \$ 1,350.00</u>
Total Fees	= \$ 2,150.00
<u>Less payments</u>	<u>= \$ 1,425.00</u>
Balance Due NASD Dispute Resolution	= \$ 725.00

3. Leeb Brokerage is solely liable for:

Third-Party Claim Filing Fee	= \$ 2,000.00
Member Fees	= \$ 7,450.00
Adjournment Fee	= \$ 400.00
Three Days Cancellation Fees	= \$ 100.00

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<u>Forum Fees</u>	= \$ 1,350.00
<u>Total Fees</u>	= \$ 11,300.00
<u>Less payments</u>	= \$ 10,050.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 1,250.00

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

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**ARBITRATION PANEL**

J. Julie Jason, Esq.

Non-Public Arbitrator, Presiding Chair

Philip W. Gaffney

Non-Public Arbitrator

Jonathan L. Goldfarb

Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.

  
J. Julie Jason, Esq.  
Non-Public Arbitrator, Presiding Chair

3/24/06  
Signature Date

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Philip W. Gaffney  
Non-Public Arbitrator

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Signature Date

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Jonathan L. Goldfarb  
Non-Public Arbitrator

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Signature Date

May 3, 2006

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Date of Service (For NASD office use only)

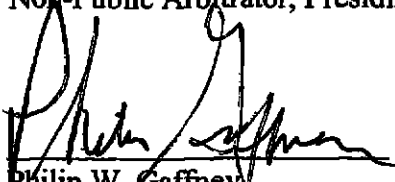
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Jonathan L. Goldfarb	-	Non-Public Arbitrator


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Philip W. Gaffney  
Non-Public Arbitrator

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Signature Date

  
\_\_\_\_\_  
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Non-Public Arbitrator

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Signature Date

May 3, 2006  
Date of Service (For NASD office use only)



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Non-Public Arbitrator, Presiding Chair

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Signature Date

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Non-Public Arbitrator

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

Jonathan Goldfarb  
Jonathan L. Goldfarb  
Non-Public Arbitrator

3/27/06  
Signature Date

May 3, 2006  
Date of Service (For NASD office use only)