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

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In the Matter of the Arbitration Between:

Name of the Claimant

Robert Helft

Case Number: 04-08529

Name of the Respondent

J.B Hanauer & Co.

Hearing Site: Boca Raton, Florida

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Nature of the Dispute: Customer vs. Member.

**REPRESENTATION OF PARTIES**

For Robert Helft, hereinafter referred to as "Claimant": Alan J. Foxman, Esq., The Law Office of Alan J. Foxman, P.A., Boca Raton, Florida until February 8, 2006. Thereafter, Claimant appeared *pro se*.

For J.B. Hanauer & Co. ("JBH"), hereinafter referred to as "Respondent": Gary Klein, Esq., Klein & Sallah, LLC, Boca Raton, Florida.

**CASE INFORMATION**

Statement of Claim filed on or about: December 20, 2004.

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

Motion to Dismiss and Answer to Claimant's Statement of Claim filed by Respondent JBH on or about: March 24, 2005.

Respondent JBH signed the Uniform Submission Agreement: December 29, 2004.

Motion to Dismiss Claimant's Statement of Claim for Failure to Comply with Arbitrators' Order filed by Respondent JBH on or about: June 6, 2005.

Claimant's Response to Respondent's Motion to Dismiss filed on or about: June 6, 2005.

Motion to Dismiss Claimant's Statement of Claim for Failure to Respond to Respondent's Discovery Request filed by Respondent JBH on or about: August 15, 2005.

Claimant's Response to Respondent's Motion to Dismiss filed on or about: August 15, 2005.

### **CASE SUMMARY**

Claimant alleged the following causes of action in the Statement of Claim: 1) breach of contract; 2) misrepresentation; 3) negligence; 4) failure to supervise; 5) violation of NASD Rule 2110; 6) violation of NASD Rule 3010(a); and 7) violation of New York Stock Exchange Rule 342. The causes of action relate to Granite City, Illinois municipal bonds purchased in Claimant's account.

Unless specifically admitted in its Statement of Answer, Respondent JBH denied the allegations made in the Statement of Claim and asserted various defenses.

### **RELIEF REQUESTED**

Claimant requested: 1) compensatory damages in the amount of \$75,000.00; 2) interest; 3) costs; and 4) attorneys' fees.

Respondent JBH requested that the undersigned arbitrators (the "Panel") enter an order: 1) dismissing the Statement of Claim, with prejudice, on the grounds that it is ineligible for arbitration pursuant to Rule 10304 of the NASD Code of Arbitration procedure (the "Code"); 2) in the alternative, dismissing the Statement of Claim, with prejudice, as barred by the applicable Florida statute of limitations; 3) in the further alternative, dismissing the Statement of Claim for failure to state a legally cognizable claim; 4) awarding Respondent JBH any and all costs and expenses incurred in defending this matter, including attorneys' fees; and 5) granting such other and further relief as the Panel deemed just and proper.

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

On or about May 18, 2005, the Panel entered an order directing Claimant to file a response to Respondent JBH's Motion to Dismiss by June 3, 2005.

On or about June 22, 2005, the Panel entered an order denying Respondent JBH's Motion to Dismiss.

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, 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 Statement of Claim is dismissed, with prejudice.

Any and all claims for relief not specifically addressed herein are denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

NASD will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$ 225.00

#### **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 JBH is a party and a member firm.

Member surcharge = \$1,100.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$1,700.00

#### **Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

November 16-18, 2005, adjourned by Claimant. The Panel waived assessment of the adjournment fee.

#### **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 three-day cancellation fees were assessed during these proceedings.

#### **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.

There were no injunctive relief fees assessed during these proceedings.

#### **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:

Four (4) Pre-hearing sessions with a single arbitrator @ \$450.00 per session = \$ 1,800.00

Pre-hearing conferences: September 7, 2005 1 session

January 24, 2006 1 session

March 29, 2006 1 session

April 26, 2006      1 session

Two (2) Pre-hearing sessions with the Panel @ \$750.00 per session = \$ 1,500.00

Pre-hearing conferences:	May 18, 2005	1 session
	June 22, 2005	1 session

Three (3) Hearing Sessions @ \$750.00 per session = \$ 2,250.00

Hearing sessions:	May 1, 2006	1 session
	May 2, 2006	2 sessions

<b>Total Forum Fees</b>	<b>= \$ 5,550.00</b>
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**The Panel has assessed forum fees in the amount of \$3,000.00 to Claimant.**

**The Panel has assessed forum fees in the amount of \$2,550.00 to Respondent JBH.**

### **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 are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

**There were no administrative costs incurred during these proceedings.**

### **Fee Summary**

**Claimant is solely liable for:**

**Initial Filing Fee** = \$ 225.00

**Forum Fees** = \$ 3,000.00

**Total Fees** = \$ 3,225.00

Less payments = \$ 975.00

Balance Due NASD Dispute Resolution	= \$ 2,250.00
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**Respondent JBH is solely liable for:**

Member Fees	= \$ 3,550.00
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**Forum Fees** = \$ 2,550.00

**Total Fees** = \$ 6,100.00

**Less payments** **= \$ 3,550.00**

Balance Due NASD Dispute Resolution	= \$ 2,550.00
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All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

**ARBITRATION PANEL**

Donald M. Homer, Esq.	-	Public Arbitrator, Presiding Chairperson
George J. Blutstein, Esq.	-	Public Arbitrator
Marc S. Piven	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

/s/  
Donald M. Homer, Esq.  
Public Arbitrator, Presiding Chairperson

Signature Date

/s/  
George J. Blutstein, Esq.  
Public Arbitrator

Signature Date

/s/  
Marc S. Piven  
Non-Public Arbitrator

Signature Date

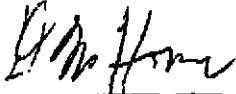
May 4, 2006  
Date of Service (For NASD Dispute Resolution office use only)

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Marc S. Piven	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**



MAY 4, 2006

Donald M. Homer, Esq.  
Public Arbitrator, Presiding Chairperson

Signature Date

George J. Blutstein, Esq.  
Public Arbitrator

Signature Date

Marc S. Piven  
Non-Public Arbitrator

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- Public Arbitrator  
- Non-Public Arbitrator

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