

## N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of  
Securities Dealers, Inc.  
NASD Financial Center  
13 Whitehall Street  
New York, N.Y. 10004  
FAX (212) 858-4389

In the Matter of the Arbitration Between

Name of Claimants

Andrea Haller, Individually and as  
Executrix Estate of Arthur Haller

vs.

Case #  
91-01942

Name of Respondents

Allen Boxer  
Marc Minkoff  
Gene Dworkis  
Jules Lipow

REPRESENTATION

For Claimants, Andrea Haller, Individually and as Executrix for the Estate of  
Arthur Haller: Pro se.

For Respondent, Marc Minkoff: Robert Dembia, Esq. of Levine & Dembia.

For Respondents, Allen Boxer and Eugene Dworkis: George J. Rundrat, Esq.

For Respondent, Jules Lipow: Katherine Nathan, Esq. of Brandeis, Bernstein &  
Wasserman.

CASE INFORMATION

Statement of Claim filed: July 2, 1991.

Claimants' Submission Agreement signed on: June 20, 1991.

Marc Minkoff's Statement of Answer filed on: October 21, 1991.

Respondent's Submission Agreement signed on: September 16, 1991.

Allen Boxer's Statement of Answer filed on: August 14, 1991.

Respondent's Submission Agreement signed on: April 27, 1992.

Eugene Dworkis's Statement of Answer filed on: August 7, 1991.

Respondent's Submission Agreement signed on: April 27, 1992.

Jules Lipow's Statement of Answer filed on: August 30, 1991.

Amended Answer to The Statement of Claim and Cross Claim filed on: March 16,  
1992.

Respondent's Submission Agreement signed on: August 27, 1991.

Joint Answer to Cross Claim by Respondents, Allen Boxer and Eugene Dworkis,  
on: March 30, 1992.

HEARING INFORMATION

Hearing Dates/Hearing Sessions: April 27, 1992 - Two sessions.  
April 28, 1992 - Two sessions.

Hearing Location: New York, New York.

CASE SUMMARY

Claimant, Andrea Haller, alleges that shortly after her father, Arthur Haller, passed away in November, 1989, his broker, Marc Minkoff, who was employed by Castleton-Rhodes, Inc. recommended and pressured her into purchasing stocks in companies such as Merlin Banes, Asset Growth Partners and TWA junk bonds.

Claimant further alleges that Marc Minkoff failed to advise her that Merlin Banes was not a real company and that it was a start-up company. She further alleges that Marc Minkoff misrepresented the risk involved in the investments. Claimant also alleges that Marc Minkoff as sole owner of Castleton-Rhodes, is personally liable to her for commissions he earned from the trades he solicited from her. Claimant further alleges that Marc Minkoff promised to send her documents which would prove that the principals of Merlin Banes and Castleton Rhodes gave him false information but did not do so. Claimant contends that all other Respondents were involved with the Castleton-Rhodes, Inc./Merlin Banes deal and are liable to her.

Respondent, Marc Minkoff, denies each and every allegation of wrongdoing set forth in the Statement of Claim. Respondent denies he applied "sales pressure" to get Andrea Haller to buy any securities. Respondent asserts six affirmative defenses and interposes a cross claim against his co-Respondents, Allen Boxer and Eugene Dworkis for indemnification.

Respondent, Eugene Dworkis and Allen Boxer, deny liability and contend that they did not speak to or recommend trades to Mr. Haller or handle his account. They further contend that they did not supervise Claimants' registered representative and did not control the activities of Castleton-Rhodes. Said Respondents argue that the Statement of Claim does not allege any allegation upon which liability can be imposed upon them. Respondents also assert four affirmative defenses.

Respondent, Jules Lipow, denies that he was a CEO of Castleton-Rhodes. Respondent denies that he gave false information to Marc Minkoff regarding these companies. Respondent states that he can neither deny nor admit the remaining allegations in the Statement of Claim based upon the fact that the allegations are not directed to him. Respondent asserts three affirmative defenses.

In his Amended Answer to the Statement of Claim filed on March 19, 1992, Respondent Lipow asserts a Cross Claim for indemnification and contribution

from Warren Schreiber. Respondent alleges that Warren Schreiber supervised and was responsible for the conduct of Marc Minkoff, Allen Boxer and Eugene Dworkis.

RELIEF REQUESTED

Claimant requests an award of \$31,250.00 which was invested in Merlin Banes and \$8,750.00 which was invested in Asset Growth Partners.

Respondent, Marc Minkoff, requests that the claim be dismissed in all respects, that costs be assessed against Claimant and that the panel award him attorney's fees and other such further and different relief as may be deemed just and equitable.

Respondents, Eugene Dworkis and Allen Boxer, request that this matter be summarily dismissed and that they be awarded costs of defending this action including attorney's fees.

Respondent, Jules Lipow, requests that the arbitrators dismiss the Statement of Claim with prejudice and award Respondent costs and disbursements in this action, including attorney's fees.

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. In either case, the parties have agreed to received conformed copies of the Award while the originals remain on file with the NASD.

By letter dated November 21, 1991, Claimants advised the NASD that they were withdrawing their claims against Warren Schreiber. Prior to the commencement of the hearing Respondent, Jules Lipow, filed an Amended Answer on March 19, 1992, and asserted a claim against Warren Schreiber. Respondents, Boxer and Dworkis, filed a response to this claim. The panel allowed the amended answer on April 9, 1992 and directed Respondent Lipow to serve Warren Schreiber with a copy of all the pleadings filed in this matter.

On the first day of the hearing, April 27, 1992, Warren Schreiber did not appear. The NASD staff member indicated on the record that Mr. Schreiber's attorney informed the NASD that he was not served and was unaware of the hearing date in this matter. Counsel for Mr. Lipow stated that the pleadings were mailed by regular mail and was subsequently mailed by federal express on April 24, 1992, the Friday before the hearing to commence on Monday, April 27, 1992. This panel proceeded with the hearing and reserved decision on whether Mr. Schreiber received adequate notice of this arbitration to confer jurisdiction over him.

AWARD

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

1. Respondent, Jules Lipow, is solely liable to the Estate of Arthur Haller on the Merlin Banes trades in the amount of **THIRTY ONE THOUSAND TWO HUNDRED AND FIFTY FIVE DOLLARS AND ZERO CENT (\$31,255.00)**. The Estate of Arthur Haller shall retain the stock certificates.

2. Respondent, Jules Lipow, is further liable to the Estate of Arthur Haller for interest at the rate of nine percent (9%) from the dates of the purchases to the date of the Award. Therefore, the Estate is awarded nine percent interest on \$12,502.50 from January 4, 1990 and on \$18,752.50 from January 17, 1990 to the date of the Award;

3. The claims asserted by the Estate of Arthur Haller against Respondents, Marc Minkoff, Eugene Dworkis and Allen Boxer, are denied in their entirety;

3. All claims asserted by Andrea Haller against the Respondents are denied in their entirety;

4. The Third-party Claim against Warren Schreiber was not decided because the panel lacks jurisdiction over him;

5. All other claims are denied;

6. All motions upon which this panel reserved decision are dealt with in this Award.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed.

1. Forum fees in the amount of \$1,600.00 for four hearing sessions at \$400.00 per session are assessed and shall be borne equally by Andrea Haller, Marc Minkoff and Jules Lipow so that each party is assessed \$533.33;

2. In addition, Claimants are assessed \$120.00 in non-refundable filing fees. Claimants shall receive a credit for \$420.00 which was previously paid and shall remit the balance, \$113.33 to the NASD.

Fees are payable to the National Association of Securities Dealers, Inc.

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Concurring Arbitrator's Signature  
Name

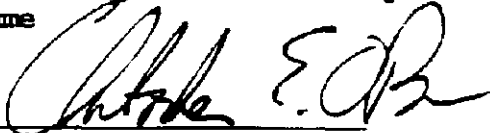
*Signature*

Joseph Rafalowicz, Esq.  
Chairperson - Public Panelist

Date of Decision: June 18, 1992

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Concurring Arbitrator's Signature  
Name

A handwritten signature in cursive script, appearing to read "Chris E. O'Brien", written over a horizontal line.

Christopher E. O'Brien, Esq.  
Industry Panelist

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Concurring Arbitrator's Signature  
Name



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Robert E. Bartkus, Esq.  
Public Panelist

Date of Decision: June 18, 1992