

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

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In the Matter of the Arbitration Between:

Sasan Azarakhsh, Claimant v. H.J. Meyers & Co., Inc. f/k/a Thomas James Associates Inc.,  
Robert J. Seteducatti, and Mark J. Allen, Respondents

Case Number: 96-04186

Hearing Site: Los Angeles, California

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Nature of the Dispute: Customer v. Member and Associated Persons

**REPRESENTATION OF PARTIES**

For Claimant:

Sasan Azarakhsh  
In Propria Persona  
Studio City, California

For Respondent H.J. Meyers & Co., Inc.

f/k/a Thomas James Associates Inc. ("H.J. Meyers & Co., Inc.):

Tracy D. Taylor  
H.J. Meyers & Co., Inc.  
Rochester, New York

For Respondent Robert J. Seteducatti:

Thomas M. Knepper, Esq.  
Knepper & Gladney  
Chicago, Illinois

For Respondent Mark J. Allen:

Mark J. Allen  
In Propria Persona  
Mansfield, Massachusetts

**CASE INFORMATION**

Statement of Claim dated: September 18, 1996

Amendment to Statement of Claim dated: November 5, 1996

Claimant's Uniform Submission Agreement signed: October 10, 1996

Joint Statement of Answer filed by Respondents H.J. Meyers & Co., Inc. and Robert J. Seteducatti: February 24, 1997

Statement of Answer filed by Respondent Mark J. Allen: April 17, 1998

Respondent Robert J. Seteducatti's Uniform Submission Agreement signed: November 21, 2005

### **CASE SUMMARY**

In the Statement of Claim and Amendment to the Statement of Claim, Claimant alleged violations of the Racketeering Influenced and Corrupt Organizations Act (18 U.S.C. §1962(a), (b), and (c)), violations of the Securities Exchange Act of 1934 and Rule 10b-5, control person liability, breach of fiduciary duty, fraud, negligence, negligent misrepresentation, respondeat superior, breach of contract, and successor liability. Claimant's claim involved an investment in Acculyte Corporation.

Respondents H.J. Meyers & Co., Inc. and Robert J. Seteducatti denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim and asserted various affirmative defenses.

Respondent Mark J. Allen denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim.

### **RELIEF REQUESTED**

In the Statement of Claim, Claimant requested \$25,000.00 in compensatory damages, punitive damages, interest, and costs, including attorney's fees. In the Amendment to the Statement of Claim, Claimant requested \$50,000.00 in compensatory damages, punitive damages, interest, and costs, including attorney's fees.

Respondents H.J. Meyers & Co., Inc. and Robert J. Seteducatti requested dismissal of the Claimant's Statement of Claim in its entirety and costs.

Respondent Mark J. Allen requested dismissal of the Claimant's Statement of Claim in its entirety and costs, including attorney's fees.

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

Respondents H.J. Meyers & Co., Inc. and Mark J. Allen did not file with NASD Dispute Resolution properly executed submission agreements, but are required to submit to arbitration pursuant to the NASD *Code of Arbitration Procedure* ("Code") and, having answered the claim, are bound by the determination of the Panel on all issues submitted.

On April 12, 1999, Respondent H.J. Meyers & Co., Inc. filed for Chapter 7 bankruptcy. Pursuant to this filing, all matters concerning this party are indefinitely stayed.

On November 29, 2005, Respondent Robert J. Seteducatti filed a Motion for Summary Disposition on Claimant's Statement of Claim. On December 19, 2005, the Panel held a telephonic pre-hearing conference to hear oral argument on Respondent's motion. Claimant and Respondent Robert J. Seteducatti both appeared at the pre-hearing conference. On December 19, 2005, the Panel issued an Order stating that "Mr. Azarakhsh will have until Tuesday, January 3, 2006 to submit any affidavits or other evidence he has to respond to Mr. Seteducatti's motion." The Order further stated that "Mr. Seteducatti will have until Tuesday, January 3, 2006 to submit any further affidavits or other evidence he has that deal with his ownership or control of the two corporate Respondents in this matter." The Panel also ordered that "[a]nother pre-hearing telephonic conference will be held at 10:00 am on Thursday, January 12, 2006 to consider Mr. Seteducatti's motion and any additional information submitted by either party." On January 12, 2006, the Panel held a telephonic pre-hearing conference. Claimant did not make an appearance at the pre-hearing conference. On January 17, 2006, the Panel issued an Order stating that the Panel had considered Respondent Robert J. Seteducatti's Motion for Summary Disposition on Claimant's Statement of Claim, and that the Panel "decided that Respondent had submitted sufficient evidence to establish that he had no involvement with the matters at issue in the claim, and that Claimant had presented no evidence to the contrary to indicate that Respondent had any liability under the claim." The Order further stated that "[t]he Motion for Summary Disposition of Respondent Robert J. Seteducatti dated November 19, 2005 is granted. Robert J. Seteducatti is hereby dismissed as a Respondent in this matter."

On January 17, 2006, the Panel issued an Order stating that "[c]laimant, Sasan Azarakhsh shall have until Tuesday, March 7, 2006 to serve Respondent Mark Allen, with actual notice of the pendency of this matter." The Order further stated that "[a]nother pre-hearing telephonic conference will be held at 10:00 am on Tuesday, March 14, 2006 to consider the disposition of the case as to Mr. Allen." On March 14, 2006, the Panel held a pre-hearing telephonic conference with Claimant. No other parties appeared for the pre-hearing conference. At the pre-hearing conference, Claimant informed the Panel that he had not perfected service on Respondent Mark J. Allen, and that he did not wish to pursue his claims against Respondent Mark J. Allen.

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 and testimony at the pre-hearings, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Claimant's claims against Respondents Robert J. Seteducatti and Mark J. Allen are dismissed with prejudice.
- 2) The parties shall bear their respective costs, including attorney's fees.
- 3) All other relief requested and not expressly granted is denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 120.00
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#### **Adjournment Fees**

The following adjournment fees are assessed:

August 10-13, 1998 hearing adjournment requested by the parties	= \$ 400.00
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The Panel waived the \$400.00 adjournment fee.

**Forum Fees and Assessments**

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Panel. The following fees are assessed:

7 Pre-hearing conference sessions with the Panel @ \$400.00/session	= \$ 2,800.00
Pre-hearing conferences:	
February 17, 1998	1 session
May 20, 1998	1 session
August 29, 2005	1 session
October 20, 2005	1 session
December 19, 2005	1 session
January 12, 2006	1 session
March 14, 2006	1 session

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<b>Total Forum Fees</b>	<b>= \$ 2,800.00</b>
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The Panel waived \$2,800.00 of the forum fees.

**Fee Summary**

Claimant is charged with the following fees and costs:

Initial Filing Fee	= \$ 120.00
Less payments	= \$( 520.00)
<b>Refund Due Claimant</b>	<b>= \$( 400.00)</b>

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

**ARBITRATION PANEL**

Frederick N. Bailard	-	Public Arbitrator, Presiding Chair
James S. Carlson	-	Public Arbitrator
Mary E. Cobb	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

  
Frederick N. Bailard  
Chair, Public Arbitrator

3/15/06  
Signature Date

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James S. Carlson  
Public Arbitrator

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

\_\_\_\_\_  
Mary E. Cobb  
Non-Public Arbitrator

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

3/16/06  
Date of Service


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Public Arbitrator

3-14-06  
\_\_\_\_\_  
Signature Date

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Mary E. Cobb  
Non-Public Arbitrator

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Signature Date

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Signature Date


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Public Arbitrator

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Signature Date

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Mary E. Cobb  
Non-Public Arbitrator

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3/16/06  
Signature Date

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3/16/06  
Date of Service