

AWARD  
NASD Regulation, Inc.

In the matter of the Arbitration Between

Name of Claimant(s)

Derek Rowley  
Corporate Service Center  
Universal Market Research, Inc.

Arbitration  
No. 98-00151

Name of Respondent(s)

HGI, Incorporated (formerly The  
Harriman Group), Marc A. Singer,  
Joseph J. Tuozzo, Mark Hanna,  
Bernice Lerner, Shane Ferras,  
Jeffrey Gray, Steven Palumbo,  
and Frank J. Casillo

REPRESENTATION

For Claimants: William P. Torngren, Esq., Sacramento, California

For Respondent HGI, Incorporated: Frank Casillo, Woodbury, New York

For Respondent Marc A. Singer: Marc A. Singer, New Hyde Park, New York

For Respondent Joseph J. Tuozzo: Edward Toscano, Esq., Garden City, New York

For Respondent Mark Hanna: Mark Hanna, Manhasset, New York

For Respondent Bernice Lerner: Bernice Lerner, New York, New York

For Respondent Shane Ferras: Shane Ferras, Bayville, New York

For Respondent Jeffrey Gray: Jeffrey Gray, Centerport, New York

For Respondent Steven Palumbo: Steven Palumbo, Coral Springs, Florida

For Respondent Frank J. Casillo: Frank J. Casillo, West Babylon, New York

#### CASE INFORMATION

Statement of Claim filed: December 16, 1997

Amended Statement of Claim filed: December 16, 1998

Claimants' Opposition to Respondent Mark Hanna's Motions to Strike and Dismiss filed: July 13, 1998

Claimants' Submission Agreements signed: November 25, 1997

Statement of Answer filed by Respondent Marc A. Singer: March 10, 1998

Statement of Answer filed by Respondent Joseph J. Tuozzo: September 10, 1998

Statement of Answer, Motion to Strike Portions of the Claim and Motion to Dismiss filed by Respondent Mark Hanna: June 17, 1998

Statement of Answer and Motion to Dismiss filed by Respondent Bernice Lerner: April 13, 1998

Statement of Answer filed by Respondent Jeffrey Gray: March 12, 1998

Statement of Answer filed by Respondent Steven Palumbo: March 12, 1998

Statement of Answer and Motion to Dismiss filed by Respondent Frank J. Casillo: April 23, 1998

Respondent Marc A. Singer's Submission Agreement signed: March 11, 1998

Respondents HGI, Incorporated and Shane Ferras did not file a Statement of Answer or Submission Agreement. Respondents Joseph J. Tuozzo, Mark Hanna, Bernice Lerner, Jeffrey Gray, Steven Palumbo and Frank J. Casillo did not file Submission Agreements. However, the panel determined that said Respondents are subject to NASD Regulation, Inc. (NASD) jurisdiction in accordance with Rule 10301 of the NASD Code of Arbitration Procedure.

#### HEARING INFORMATION

Pre-Hearing Conference Date(s)/Session(s):

December 2, 1998 (one session)

April 5, 1999 (one session)

Hearing Date(s)/Session(s): April 12, 1999 (two sessions)  
April 13, 1999 (two sessions)  
April 14, 1999 (three sessions)  
April 15, 1999 (one session)

Hearing Location: San Francisco, California

#### CASE SUMMARY

Claimants alleged that the above-captioned dispute arises out of the boiler room operation of and stock manipulation by HGI, Inc. Claimants further alleged that Respondents misrepresented and omitted to disclose material facts to Claimants in connection with HGI's activities relative to acting as the co-underwriter of an initial public offering of units offered by Natural Health Trends and lead manager and co-underwriter of the initial public offering of units offered by International Cutlery, the aftermarket sales of the stock of those companies, and in connection with Respondents' recommendation and solicitation of Claimants' investments in those companies. Claimants further alleged that the individual respondents solicited the investments, created, managed, and ran HGI and controlled its operations and agents. Claimants further alleged that Respondents engaged in a course of conduct violative of state and federal laws, the rules and regulations of the NASD, and the standards of the securities industry.

In separately filed Statements of Answer, Respondents Marc A. Singer, Joseph J. Tuozzo, Mark Hanna, Bernice Lerner, Jeffrey Gray, Steven Palumbo and Frank J. Casillo denied Claimants' allegations of wrongdoing and denied any liability to Claimants. Respondents Tuozzo, Hanna, Lerner, Gray and Palumbo also asserted affirmative defenses.

#### RELIEF REQUESTED

Claimants requested an award against Respondents as follows:

1. A determination that each of the Respondents is jointly and severally liable to Claimants for their damages;
2. A determination that each Respondent committed fraud;
3. Damages in the amount of \$668,525.31, plus interest from the date of each purchase, and additional amounts according to proof;
4. Punitive damages against each Respondent;
5. Any award be trebled as provided in Section 1 of NRS 207.470;
6. Attorneys' fees as provided by the Nevada Blue Sky and racketeering laws and federal common law;

7. Claimants' costs of arbitration including filing fees;
8. An order directing Respondents to pay the costs of the hearing and the return of any hearing deposit made by Claimants; and
9. Such other and further relief as the arbitrators deem just and proper.

Respondent Tuozzo requested an award:

1. Denying all claims asserted against him in the Statement of Claim;
2. Assessing the costs of this proceeding against Claimants, inclusive of Respondent Tuozzo's attorneys' fees; and
3. All such other and further relief as the arbitrators may deem just and necessary.

Respondent Hanna requested an award:

1. Dismissing the Statement of Claim as against Respondent Hanna and denying Claimants any relief since he had no involvement with the transactions complained of in the Claim;
2. Assessing against Claimants the costs of defending this proceeding, including all attorney's fees and disbursements; and
3. For such other, further and different relief the arbitrators deem just and appropriate.

Respondent Lerner requested an award:

1. Denying all claims in the Statement of Claim;
2. Assessing the costs of this proceeding against Claimants, inclusive of Respondent Lerner's attorneys' fees;
3. Dismissing the Statement of Claim in its entirety as to Respondent Lerner; and
4. All such other and further relief as the arbitrators may deem just and necessary.

Respondent Gray requested an award:

1. Denying all claims asserted against him in the Statement of Claim;
2. Assessing the costs of this proceeding against Claimants, inclusive of Respondent Gray's attorneys' fees; and
3. All such other and further relief as the arbitrators may deem just and necessary.

Respondent Palumbo requested an award:

1. Denying all claims asserted against him in the Statement of Claim;

2. Assessing the costs of this proceeding against Claimants, inclusive of Respondent Palumbo's attorneys' fees; and

3. All such other and further relief as the arbitrators may deem just and necessary.

Respondent Casillo requested that he be dismissed from this arbitration.

#### OTHER ISSUES CONSIDERED AND DECIDED

On or about January 19, 1999, the panel was advised that Claimants dismissed all of their claims against Michael Cardello.

Prior to the hearing, the panel was advised of the bankruptcy filing by Brian Scanlon and further advised that the above-captioned matter is stayed with respect to Mr. Scanlon. As a result thereof, the panel rendered no decision with respect to Mr. Scanlon.

On or about March 23, 1999, the panel was advised of the settlement reached between Claimants and John C. Simonetti.

On or about March 31, 1999, the panel was advised that the United States Bankruptcy Court for the Southern District of Florida granted Claimants' motion for relief from the automatic stay with respect to Joseph J. Tuozzo and Frank J. Casillo. The aforementioned court permitted Claimants to litigate their claims against Respondents Tuozzo and Casillo with respect to the above-captioned matter.

On or about April 15, 1999, the panel was advised that Claimants withdrew their claims against Shawn W. Nester.

At hearing, the panel was advised of the bankruptcy filing by Scott Follett and further advised that the above-captioned matter is stayed with respect to Mr. Follett. As a result thereof, the panel rendered no decision with respect to Mr. Follett.

Respondents HGI, Incorporated, Joseph J. Tuozzo, Mark Hanna, Bernice Lerner, Shane Ferras and Frank J. Casillo did not appear at hearing. Pursuant to Rule 10318 of the NASD Code of Arbitration Procedure, the panel determined that said Respondents received proper service and notice and ruled to proceed in their absence.

The parties present at hearing have agreed that the Award in this matter may be executed in either counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties present at hearing have agreed to receive conformed

copies of the Award while the originals remain on file with the NASD.

#### AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, including the positions of the parties relative to motions to dismiss, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents HGI, Incorporated, Mark Hanna, Bernice Lerner and Joseph J. Tuozzo are jointly and severally liable for and shall pay to Claimant Corporate Service Center the sum of \$337,055.87 in compensatory damages, inclusive of interest to date of award.

2. Respondents HGI, Incorporated, Mark Hanna and Bernice Lerner are jointly and severally liable for and shall pay to Claimant Corporate Service Center the sum of \$337,055.87 in punitive damages pursuant to the laws of the state of Nevada (NRS Section 42.005).

3. Respondents HGI, Incorporated, Mark Hanna, Bernice Lerner and Joseph J. Tuozzo are jointly and severally liable for and shall pay to Claimant Universal Market Research, Inc. the sum of \$428,432.97 in compensatory damages, inclusive of interest to date of award.

4. Respondents HGI, Incorporated, Mark Hanna and Bernice Lerner are jointly and severally liable for and shall pay to Claimant Universal Market Research, Inc. the sum of \$428,432.97 in punitive damages pursuant to the laws of the state of Nevada (NRS Section 42.005).

5. Respondent Marc A. Singer is solely liable for and shall pay to Claimant Corporate Service Center the sum of \$34,344.19 in compensatory damages, inclusive of interest to date of award.

6. Respondent Marc A. Singer is solely liable for and shall pay to Claimant Universal Market Research, Inc. the sum of \$34,523.23 in compensatory damages, inclusive of interest to date of award.

7. The panel found no liability with respect to Respondents Jeffrey Gray, Frank J. Casillo, Shane Ferras and Steven Palumbo.

8. All claims by Derek Rowley are dismissed.

9. The parties shall each bear their respective costs including attorney's fees.

10. This award shall bear interest at the rate of 8% per annum from date of award.

11. All determination of damages by the panel were unanimous except in the case of Respondent Palumbo in which instance, one dissenting panel member would have found compensatory damages, based on liability for negligence, in the amount of \$86,000.00.

### FINDINGS

The panel found the following basis of liability:

1. Respondents HGI, Incorporated, Hanna, Lerner, Tuozzo and Singer by making intentional misrepresentations or intentionally failing to disclose material information, committed fraud under Nevada common law in concert with Brian Scanlon.

2. Respondents HGI, Incorporated, Hanna, Lerner, Tuozzo and Singer, individually and in concert with Brian Scanlon as members of the securities industry, breached their respective fiduciary duties to Claimants Corporate Service Center and Universal Market Research, Inc.

3. Respondents HGI, Incorporated, Hanna and Lerner, in concert with Brian Scanlon, violated Nevada Blue Sky Laws (NRS Sections 90.570 and 90.660) and Section 10(b) of the 1934 Act and Rule 10b-5 thereunder.

4. Respondents HGI, Incorporated, Tuozzo and Singer, individually and in concert with Brian Scanlon, were negligent in failing to meet appropriate standards of care in their dealings with Claimants.

5. Respondents HGI, Incorporated, Tuozzo and Singer, individually and in concert with Brian Scanlon, breached the implied covenant of good faith and fair dealing under the laws of the state of Nevada.

### FORUM FEES

Pursuant to Rule 10332(c) of the Code of Arbitration Procedure, the following forum fees are assessed: The NASD shall refund Claimants' hearing session deposit in the amount of \$1,000.00. Forum fees shall be assessed against Respondents HGI, Incorporated, Marc A. Singer, Joseph J. Tuozzo, Mark Hanna and Bernice Lerner, jointly and severally, in the amount of \$9,300.00, calculated as follows: One pre-hearing session times

\$1,000.00, plus one pre-hearing session times \$300.00, plus eight hearing sessions times \$1,000.00.

Fees are payable to NASD Regulation, Inc.

**OTHER FEES**

Pursuant to Rule 10333 of the Code of Arbitration Procedure, Respondent HGI, Incorporated shall pay to NASD the \$2,500.00 member surcharge and processing fees in the amount of \$5,100.00 previously invoiced.

**ARBITRATORS**

Name ..... Public / Industry

Allan Blau, Esq.  
Peter John Wercinski, Esq.  
Michele Neureuter

Public Arbitrator  
Public Arbitrator  
Industry Arbitrator

**Concurring Arbitrators' Signatures**

  
\_\_\_\_\_  
Allan Blau, Esq.

\_\_\_\_\_  
Peter John Wercinski, Esq.

\_\_\_\_\_  
Michele Neureuter

Date of Decision: \_\_\_\_\_

Date Served:

AUG 12 1999



\$1,000.00, plus one pre-hearing session times \$300.00, plus eight hearing sessions times \$1,000.00.

Fees are payable to NASD Regulation, Inc.

OTHER FEES

Pursuant to Rule 10333 of the Code of Arbitration Procedure, Respondent HGI, Incorporated shall pay to NASD the \$2,500.00 member surcharge and processing fees in the amount of \$5,100.00 previously invoiced.

ARBITRATORS

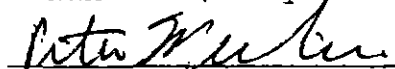
Name ..... Public / Industry

Allan Blau, Esq.  
Peter John Wercinski, Esq.  
Michele Neureuter

Public Arbitrator  
Public Arbitrator  
Industry Arbitrator

Concurring Arbitrators' Signatures

\_\_\_\_\_  
Allan Blau, Esq.

  
\_\_\_\_\_  
Peter John Wercinski, Esq.

\_\_\_\_\_  
Michele Neureuter

Date of Decision: \_\_\_\_\_

Date Served:

AUG 12 1999

\$1,000.00, plus one pre-hearing session times \$300.00, plus eight hearing sessions times \$1,000.00.

Fees are payable to NASD Regulation, Inc.

OTHER FEES

Pursuant to Rule 10333 of the Code of Arbitration Procedure, Respondent HGI, Incorporated shall pay to NASD the \$2,500.00 member surcharge and processing fees in the amount of \$5,100.00 previously invoiced.

ARBITRATORS

Name .....Public / Industry

Allan Blau, Esq.

Public Arbitrator

Peter John Wercinski, Esq.

Public Arbitrator

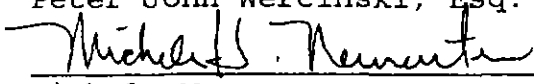
Michele Neureuter

Industry Arbitrator

Concurring Arbitrators' Signatures

\_\_\_\_\_  
Allan Blau, Esq.

\_\_\_\_\_  
Peter John Wercinski, Esq.

  
\_\_\_\_\_  
Michele Neureuter

Date of Decision: \_\_\_\_\_

Date Served:  
AUG 12 1999