

**Award**  
**NASD Regulation, Inc.**

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In the Matter of the Arbitration Between:

Augustine Fund, L.P. (Claimant) vs. Joseph Charles & Associates, Inc. and  
Laurence Alpert (Respondents)

Case Number: 98-03863

Hearing Site: Chicago, Illinois

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**REPRESENTATION OF PARTIES**

Claimant Augustine Fund, L.P. ("Augustine Fund"): Thomas P. Krebs, Esq.,  
Foley & Lardner, Chicago, Illinois

Respondent Joseph Charles & Associates, Inc. ("Joseph Charles"): Laura  
Arnoff, Esq., Legal Department of Joseph Charles & Associates, Inc., Boca  
Raton, Florida

Respondent Laurence Alpert ("Alpert"): Thomas Birge, Esq., Birge & Minckley,  
PC, Denver, Colorado

**CASE INFORMATION**

Statement of Claim filed on or about: November 16, 1998

Claimant Augustine Fund signed the Uniform Submission Agreement: October  
12, 1998

Statement of Answer filed by Respondent Joseph Charles on or about:  
November 04, 1998

Respondent Joseph Charles signed the Uniform Submission Agreement:  
Thomas P. Krebs

Respondent Alpert filed signed a form U-4, Uniform Application for Securities  
Industry Registration or Transfer, which includes an arbitration agreement on or  
about July 21, 2000.

**CASE SUMMARY**

Claimant asserted the following causes of action: unauthorized trading and  
fraud breach of fiduciary duty. The causes of action relate to the order execution  
of Ursus Telecom Corp. and Ontro Inc. stock.

### **RELIEF REQUESTED**

Claimant Augustine Fund requested:

Compensatory Damages	\$198,815.00
Punitive Damages	unspecified
Interest	unspecified
Attorneys' Fees	unspecified

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

Respondent Joseph Charles & Associates, Inc. filed bankruptcy. As a consequence, this proceeding is stayed as to this Respondent.

Upon review of the file and the representations made by/on behalf of the Claimant, the undersigned Panel determined that Respondent Alpert has been properly served with the Statement of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without said Respondent present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

Respondent Alpert did not file with the NASD Regulation, Inc. Office of Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to the Code and is bound by the determination of the Panel on all issues submitted.

### **AWARD**

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

1. Respondent Laurence G. Alpert is solely liable to Claimant Augustine Fund, L.P. in the amount of \$167,281.00 as compensatory damages;
2. Respondent Laurence G. Alpert is solely liable to Claimant Augustine Fund, L.P. in the amount of \$50,505.00 as interest accrued prior to entry of award;
3. Respondent Laurence G. Alpert is solely liable to Claimant Augustine Fund, L.P. in the amount of \$ 26,508.00 in attorney fees and costs pursuant to 815 ILCS 5/13;
4. 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 Regulation, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$200.00
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#### **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, the member firm is a party.

Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$ 600.00
<u>Hearing process fee</u>	<u>= \$2,500.00</u>
Total	= \$4,600.00

#### **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. Fees associated with these proceedings are:

One (1) Pre-hearing session with a single arbitrator x \$350.00	= \$350.00
Pre-hearing conference: May 19, 1999	1 session

One (1) Pre-hearing session with Panel x \$750.00	= \$750.00
Pre-hearing conference: September 28, 2000	1 session

One (1) Hearing sessions x \$750.00	= \$750.00
<u>Hearing Date: March 12, 2001</u>	<u>1 session</u>
Total Forum Fees	= \$1,850.00

1. The Panel has assessed \$1,850.00 of the forum fees to Respondent Laurence Alpert.

### **Fee Summary**

1. Claimant Augustine Fund, L.P. shall be and hereby is solely liable for:

<u>Initial Filing Fee</u>	<u>= \$ 200.00</u>
Total Fees	= \$ 200.00
<u>Less payments</u>	<u>= \$ 950.00</u>
Refund Due from NASD Regulation, Inc.	= \$ 750.00

2. Respondent Laurence Alpert shall be and is solely liable for:

Forum Fee	= \$1,850.00
Balance Due NASD Regulation, Inc.	= \$1,850.00

All balances are due to NASD Regulation, Inc.

**ARBITRATION PANEL**

Leonard A. Nelson	-	Public/Non-Public, Presiding Chair
A. Daniel Feldman	-	Public/Non-Public Arbitrator
Peter A. Maren	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

/s/ Leonard A. Nelson

05/10/01

\_\_\_\_\_  
Leonard A. Nelson, Esq.  
Public Arbitrator, Presiding Chair

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

/s/ A. Daniel Feldman

05/03/01

\_\_\_\_\_  
A. Daniel Feldman, Esq.  
Public Arbitrator

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

/s/ Peter a Maren

05/04/01

\_\_\_\_\_  
Peter A. Maren, J.D.  
Industry Arbitrator

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

05/17/01

\_\_\_\_\_  
Date of Service (For NASD office use only)

NASD Dispute Resolution, Inc.  
Case number: 98-03863  
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2. Respondent Laurence Alpert shall be and is solely liable for:
- |                                   |              |
|-----------------------------------|--------------|
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| Balance Due NASD Regulation, Inc. | = \$1,850.00 |

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A. Daniel Feldman	-	Public/Non-Public Arbitrator
Peter A. Maren	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

Leonard A. Nelson  
Leonard A. Nelson, Esq.  
Public Arbitrator, Presiding Chair

5/15/01  
Signature Date

A. Daniel Feldman, Esq.  
Public Arbitrator

Signature Date

Peter A. Maren, J.D.  
Industry Arbitrator

Signature Date

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**Concurring Arbitrators' Signatures**

\_\_\_\_\_  
Leonard A. Nelson, Esq.  
Public Arbitrator, Presiding Chair

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

  
A. Daniel Feldman, Esq.  
Public Arbitrator

May 3, 2001  
Signature Date

\_\_\_\_\_  
Peter A. Maren, J.D.  
Industry Arbitrator

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

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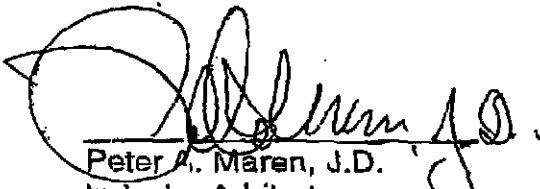
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\_\_\_\_\_  
Leonard A. Nelson, Esq.  
Public Arbitrator, Presiding Chair

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

\_\_\_\_\_  
A. Daniel Feldman, Esq.  
Public Arbitrator

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

  
\_\_\_\_\_  
Peter A. Maren, J.D.  
Industry Arbitrator

05/04/01  
Signature Date

\_\_\_\_\_  
Date of Service (For NASD office use only)