

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

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In the Matter of the Arbitration Between:

Fu Luan, Claimant v. Bluestone Securities, Inc., Hong Yi Sun, Changyan Zhao, Mark Cheng-Pin Lee, Marshall Chen, Amerivet Securities, Inc., Elton Johnson, Jr., David Clinton Wade, and David Hughes Giauque, Respondents.

Case Number: 99-00473

Hearing Site: Los Angeles, California

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**REPRESENTATION OF PARTIES**

For Claimant:

Michael E. Friedman, Esq.  
Law Offices of Michael E. Friedman  
Pasadena, California

For Hong Yi Sun, Changyan Zhao, Mark  
Cheng-Pin Lee, Amerivet Securities, Inc.,  
Elton Johnson, Jr., David Clinton Wade,  
and David Hughes Giauque, Respondents:

Michael A. Oswald, Esq.  
Oswald & Yap  
Irvine, California

For Marshall Chen, Respondent:

Jeffrey Thomas, Esq.  
Law Offices of Jeffrey Thomas  
Irvine, California

**CASE INFORMATION**

Statement of Claim filed:

January 28, 1999

Claimant's Uniform Submission Agreement signed:

January 12, 1999

Statement of Answer filed jointly by Respondents  
Bluestone Securities, Inc., Hong Yi Sun, Changyan  
Zhao, Mark Cheng-Pin Lee, Amerivet Securities, Inc.,  
Elton Johnson, Jr., David Clinton Wade, and David  
Hughes Giauque:

May 20, 1999

Statement of Answer filed by Respondent Marshall Chen:

January 14, 2000

Respondent Bluestone Securities, Inc.'s Uniform  
Submission Agreement signed:

May 20, 1999

Respondent Hong Yi Sun's Uniform Submission Agreement signed:	May 22, 1999
Respondent Changyan Zhao's Uniform Submission Agreement signed:	May 22, 1999
Respondent Mark Cheng-Pin Lee's Uniform Submission Agreement signed:	May 20, 1999
Respondent Amerivet Securities, Inc.'s Uniform Submission Agreement signed:	May 18, 1999
Respondent Elton Johnson, Jr.'s Uniform Submission Agreement signed:	May 18, 1999
Respondent David Clinton Wade's Uniform Submission Agreement signed:	May 14, 1999
Respondent David Hughes Giauque's Uniform Submission Agreement signed:	May 14, 1999

#### **CASE SUMMARY**

Claimant alleged violations of federal and state securities laws, common law fraud, negligence, breach of fiduciary duty, unauthorized trading, churning and failure to supervise.

Respondents Bluestone Securities, Inc., Hong Yi Sun, Changyan Zhao, Mark Cheng-Pin Lee, Amerivet Securities, Inc., Elton Johnson, Jr., David Clinton Wade, and David Hughes Giauque, denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim.

Respondent Marshall Chen denied the allegations of wrongdoing set forth in the Claimants' Statement of Claim.

#### **RELIEF REQUESTED**

Claimant requested compensatory damages in the amount of \$591,869.75 for out of pocket trading losses plus \$134,235.00 for reimbursement of commissions, margin interest and any other sales charges. In the alternative, Claimant requested \$993,910.00 in damages. Claimant also requested interest at 10% per annum on the \$1,000,000.00 he invested in February 1998 until the amount is paid. Claimant further requested punitive damages in an amount to be determined by the Panel, interest, costs and attorney's fees.

Respondents Bluestone Securities, Inc., Hong Yi Sun, Changyan Zhao, Mark Cheng-Pin Lee, Amerivet Securities, Inc., Elton Johnson, Jr., David Clinton Wade, and David Hughes Giauque requested dismissal of the Claimants' Statement of Claim in its entirety, costs and attorney's fees.

Respondent Marshall Chen requested dismissal of the Claimants' Statement of Claim in its entirety, costs and attorney's fees.

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

Respondent Marshall Chen 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 having answered the claim, appeared and testified at the hearing is bound by the determination of the Panel on all issues submitted.

On March 7, 2000, a court order placed Respondent Bluestone Securities, Inc. into SIPC receivership. The arbitration was stayed as to Respondent Bluestone Securities, Inc.

During the course of the arbitration hearing, Claimant, with the Panel's approval, dismissed Respondent David Clinton Wade.

During the course of the arbitration hearing, Claimant, with the Panel's approval, dismissed Respondent David Hughes Giauque.

During the course of the arbitration hearing, Claimant, with the Panel's approval, dismissed Respondent Changyan Zhao.

### **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) Claimant's claims are denied in their entirety.
- 2) Each party shall bear its own costs, including attorney's fees.
- 3) All other relief not expressly granted is denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

NASD Regulation, Inc. has received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee = \$ 250.00

#### **Member Fees**

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the event of the dispute. Accordingly, the member firm Amerivet Securities, Inc. is a party and the following fees are assessed:

Member Surcharge = \$ 2,500.00  
Pre-Hearing Process Fee = \$ 600.00  
Hearing Process Fee = \$ 4,500.00  
Total Amerivet Securities, Inc. Fees = \$7,600.00

#### **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:

2 Pre-hearing conference sessions with the Panel @ \$1,000.00/Session = \$ 2,000.00  
Pre-hearing conferences:     October 5, 1999     1 Session  
                                      December 13, 1999     1 Session  
  
11 Hearing sessions @ \$1,000.00/Session = \$ 11,000.00  
Hearings:                     March 20, 1999     2 Sessions  
                                      March 21, 1999     2 Sessions  
                                      March 22, 1999     2 Sessions  
                                      March 23, 1999     2 Sessions  
                                      March 24, 1999     3 Sessions

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Total Forum Fees = \$ 13,000.00

1. The Arbitration Panel has assessed \$9,750.00 of the forum fees to Claimant Fu Luan.
2. The Arbitration Panel has assessed \$3,250.00 of the forum fees jointly and severally to Respondents Amerivet Securities, Inc., Elton Johnson, Jr., Mark Cheng-Pin Lee, and Hong Yi Sun.

**Administrative Costs**

Administrative costs are expenses incurred because a party requested additional services beyond the normal administrative services. These additional services include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, security, and sundry other requests.

Party Marshall Chen, requested 34 photocopies @ \$1.00/page = \$ 34.00

**Fee Summary**

1. Claimant, Fu Luan, is charged with the following fees and costs:

Initial Filing Fee	= \$ 250.00
Forum Fees	= \$ 9,750.00
Total Fees	= \$ 10,000.00
Less payments	= \$ (1,605.00)
Balance Due NASD Regulation, Inc.	= \$ 8,395.00

2. Respondent, Amerivet Securities, Inc., is charged with the following fees and costs:

Member Fees	= \$ 7,600.00
Less payments	= \$(2,500.00)
Balance Due NASD Regulation, Inc.	= \$ 5,100.00

3. Respondent, Marshall Chen, is charged with the following fees and costs:

Administrative Costs	= \$ 34.00
Balance Due NASD Regulation, Inc.	= \$ 34.00

4. Respondents, Respondents Amerivet Securities, Inc., Elton Johnson, Jr., Mark Cheng-Pin Lee, and Hong Yi Sun. are jointly and severally charged with the following fees and costs:

Forum Fees	= \$ 3,250.00
Balance Due NASD Regulation, Inc.	= \$ 3,250.00

All balances are payable to NASD Regulation, Inc. and are due within 30 days of the award's date of service.

NASD Regulation, Inc. Office of Dispute Resolution  
Arbitration No. 99-00473  
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DATED: April 4, 2000



LISA C. ANDERSON, Esq.  
Public Arbitrator Chairperson

DATED: April , 2000

SALVATORE A. SCIORTINO  
Public Arbitrator Panelist

DATED: April , 2000

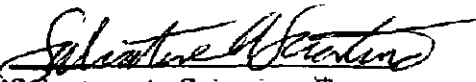
MICHAEL C. POCATERRA  
Industry Arbitrator Panelist

4/5/00  
Date of Service

Concurring Arbitrators' Signatures

\_\_\_\_\_  
Lisa C. Anderson, Esq.  
Chair, Public Arbitrator

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

  
Salvatore A. Sciortino, Esq.  
Public Arbitrator

4/3/00  
Signature Date

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Michael C. Pocaterra  
Non-Public Arbitrator

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

4/5/00  
Date of Service

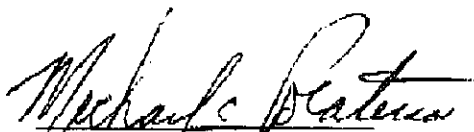
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Chair, Public Arbitrator

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Signature Date

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Salvatore A. Sciortino, Esq.  
Public Arbitrator

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Signature Date

  
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Michael C. Pocaterra  
Non-Public Arbitrator

4-2-2000  
\_\_\_\_\_  
Signature Date

4/5/00  
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Date of Service