

Award
NASD Regulation, Inc.

In the Matter of the Arbitration Between

Barbara Carpe (Claimant) vs. Jerome Rubin, Alan P. Halpert and Matthew Halpert
(Respondents)

Case Number: 99-01150

Hearing Site: New York, New York

REPRESENTATION OF PARTIES

Claimant, Barbara Carpe, hereinafter referred to as "Claimant": Morgan W. Bentley, Esq.,
Newark, New Jersey.

Respondent, Jerome Rubin, hereinafter referred to as "Respondent Rubin": Anthony
Paduano, Esq., Smith Campbell & Paduano, New York, New York.

Respondent, Alan P. Halpert, hereinafter referred to as "Respondent A. Halpert": Ross
Pearlson, Esq., Sills, Cumis Radin Tischman, et al., Newark, New Jersey.

Respondent, Matthew Halpert, hereinafter referred to as "Respondent M. Halpert", pro se.

CASE INFORMATION

Statement of Claim filed on or about: March 9, 1999.

Claimant signed the Uniform Submission Agreement: March 8, 1999.

Response to Motion to Dismiss filed on or about: May 15, 2000.

Statement of Answer and Crossclaim filed by Respondent Rubin on or about: June 9, 1999.

Statement of Answer to Crossclaim filed by Respondent Rubin on or about: February 29,
2000.

Respondent Rubin signed the Uniform Submission Agreement: April 13, 1999.

Motion to Dismiss filed by Respondent Rubin on or about: April 10, 2000.

Statement of Answer filed by Respondent A. Halpert on or about: May 18, 1999 and June
8, 1999.

Statement of Answer to Crossclaim and Crossclaim filed by Respondent A. Halpert on or
about: February 10, 1999.

Respondent A. Halpert did not sign the Uniform Submission Agreement.

Motion to Dismiss filed by Respondent A. Halpert on or about: April 5, 2000.

Letter in Further Support of Motion to Dismiss filed by Respondent A. Halpert on or about:
May 16, 2000.

Respondent M. Halpert did not file a Statement of Answer or sign a Submission Agreement

CASE SUMMARY

Claimant asserted the following causes of action: breach of fiduciary duty; unsuitability; fraud and misrepresentation in connection with the following private placements: Bennett Funding Private Placements, Motorvac, SMR Preferred Return Acquisition Funds, Helin Oil and Cookie Crumbs. •

Unless specifically admitted in its Answer, Respondent Rubin denied the allegations made in the Statement of Claim and asserted the following defenses: the Statement of Claim fails to state a claim for relief and fails to state facts that support the claims set forth therein; Claimant knew and assumed the risks, which were the direct and proximate cause of Claimant's losses and is barred and estopped from recovery; the Statement of Claim is barred in whole or in part by the doctrines of laches, waiver, ratification and estoppel; Claimant did not reasonably rely on any matters, statements or omissions attributable to Mr. Rubin; any claims Claimant might have against Respondent Rubin are barred because Claimant failed to exercise due diligence or reasonable care, ratified or acquiesced in some or all of the matters alleged to constitute violations or claims and relied on the advice and representations of advisors other than Respondent Rubin; claims for violations of federal and state securities laws, breach of fiduciary duty, fraud and negligence are barred by the applicable statutes of limitation; the claim is barred in whole or in part because any and all losses sustained were due to the actions, omissions or negligence of Claimant; the investments effected in the accounts were not unsuitable under the circumstances; Claimant is precluded from recovery against Respondent Rubin because Claimant assumed the risks of the investments; Claimant failed to plead the elements of fraud or misrepresentation; Claimant's losses, if any, were caused by the failure of Halpert & Co., its controlling shareholders and principals, to perform adequate and competent due diligence; and the claims are barred because Claimant lacks standing to sue.

Respondent Rubin denies liability with respect to the Crossclaim.

Unless specifically admitted in its Answer, Respondent A. Halpert denied the allegations made in the Statement of Claim and asserted twenty affirmative defenses to the Statement of Claim including the following: the NASD does not have jurisdiction over him; Claimant failed to state a claim against him; the claims are barred by the applicable statutes of limitations and/or eligibility rules; there is no private right of action for violation of the suitability rules of the NASD; Respondent A. Halpert did not make any representations to Claimant regarding the investments at issue nor did he aid and abet the making of any representations to Claimant; the investments were consistent with Claimant's stated investment objectives; Claimant expressly ordered, approved, ratified and participated in the acts and transactions complained of and is accordingly barred from recovery; Claimant's alleged damages, if any, should be reduced by any and all distributions or other payments she received concerning the subject investments; and, there is no basis upon which punitive damages could be awarded.

Respondent A. Halpert asserted the following defenses to the Crossclaim: the Crossclaim fails to state claim against him; the Crossclaim is barred by the doctrines of unclean hands and estoppel; any damages alleged in the Crossclaim are the result of Respondent Rubin's

negligence or misconduct; Halpert & Co. performed adequate due diligence with respect to the investments at issue; Respondent Rubin was fully advised of the risks involved in the subject investments and did not rely on any representations made by Respondent A. Halpert; and, Respondent Rubin failed to adequately plead the elements of fraud or misrepresentation.

RELIEF REQUESTED

Claimant requested:

Compensatory Damages	\$260,000.00
Punitive Damages	\$
Interest and Attorneys' Fees	\$100,000.00

Respondent Rubin requested dismissal of the Statement of Claim and an award on his Crossclaim against Respondents, A. Halpert and M. Halpert:

Compensatory Damages	\$
Attorneys' Fees	\$
Other Costs	\$
Other Monetary/Non-Monetary Relief if any:	

Respondent A. Halpert requested dismissal of the Statement of claim and Crossclaim, and: That, should the panel find against any of the Respondents, the Award be specifically apportioned among the Respondents; That the costs of the hearings not be held against him contribution from Respondent Rubin to the extend Respondent A. Halpert is held liable under the Statement of Claim.

OTHER ISSUES CONSIDERED AND DECIDED

Upon review of the file and the representations made by/on behalf of the Claimant, the undersigned arbitrators (the "Panel") determined that Respondent M. Halpert 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").

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

After considering the pleadings, including the motion papers, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Respondents and Claimant have moved and cross-moved respectively for various relief involving discovery disputes and alleged failures to provide discovery and disclosure. Respondents have also moved to dismiss the Claimant's case in its entirety based, inter alia,

upon the grounds that the claims now presented are barred by the failure of Claimant to "opt out" of a certain class action, to wit, *In Re Bennett Funding Group Securities Litigation*, MDL Docket No. 1153 (SDNY) (the "Class Action"). The Panel has duly deliberated over these matters, and caucused among the members on two occasions and has fully considered and evaluated all the facts and circumstances known to us, the arguments of counsels, and all papers heretofore had and filed.

It is the finding of the Panel that Claimant was in fact a member of the subject class in the Class Action. It is the further finding and determination of the Panel that the claims raised in this arbitration were encompassed with the scope and nature of the Class Action. Accordingly, it is the determination of the Panel that the claims of the Claimant must be dismissed in their entirety and this arbitration dismissed.

All other motions and cross-motions are denied as moot.

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
Cross claim filing fee	= \$500.00
Cross claim filing fee	= \$500.00

Adjournment Fees

Adjournments requested during these proceedings:

June 28, 29 and 30, 2000, adjournment by Claimant = Fee Waived

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 \$300.00	= \$ 300.00
Pre-hearing conference: May 10, 2000	1 session
One (1) Pre-hearing session with Panel x \$750.00	= \$ 750.00
Pre-hearing conference: January 28, 2000	1 session
Total Forum Fees	= \$1,050.00

The Panel has assessed \$262.50 of the forum fees to Claimant, Barbara Carpe.
The Panel has assessed \$262.50 of the forum fees to Respondent, Jerome Rubin.
The Panel has assessed \$262.50 of the forum fees to Respondent, Alan Halpert.

The Panel has assessed \$262.50 of the forum fees to Respondent, Matthew Halpert.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services including, but not limited to, additional copies of arbitrator awards beyond those provided without charge, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

Respondent, Jerome Rubin, requested copies of documents, \$1.50.

Fee Summary

Claimant, Barbara Carpe, be and hereby is solely liable for:

Initial Filing Fee	= \$200.00
Forum Fees	= \$262.50
Total Fees	= \$462.50
Less payments	= \$950.00
Refund Due Claimant, Barbara Carpe	= \$487.50

Respondent, Jerome Rubin, be and hereby are jointly and severally liable for:

Crossclaim Filing fee	= \$500.00
Forum Fee	= \$262.50
Administrative Costs	= \$ 1.50
Total Fees	= \$764.00
Less payments	= \$1,251.50
Refund Due Respondent, Jerome Rubin	= \$ 487.50

Respondent, Alan Halpert, be and hereby is solely liable for:

Crossclaim Filing Fee	= \$500.00
Forum Fees	= \$262.50
Total Fees	= \$762.50
Less payments	= \$1,250.00
Refund Due Respondent, Alan Halpert	= \$ 487.50

Respondent, Matthew Halpert, be and hereby is solely liable for:

Forum Fees	= \$262.50
Total Fees	= \$262.50
Less payments	= \$ 0.00
Balance Due NASD Regulation, Inc.	= \$ 262.50

All balances are due and payable to NASD Regulation, Inc.


Concurring Arbitrators' Signatures

Mitchel J. Landron, Esq.
Public Arbitrator, Presiding Chair

Signature Date

I, Mitchel J. Landron, Esq., do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

Mitchel J. Landron, Esq.




Steven T. Stern
Public Arbitrator



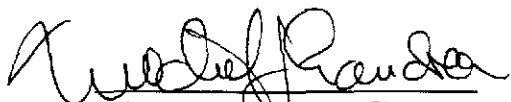
Signature Date

I, Steven T. Stern, Esq., do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.



Steven T. Stern, Esq.

Concurring Arbitrators' Signatures

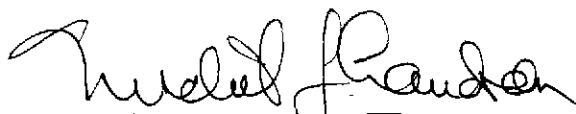


Mitchel J. Landron, Esq.
Public Arbitrator, Presiding Chair



Signature Date

I, Mitchel J. Landron, Esq., do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.



Mitchel J. Landron, Esq.

Steven T. Stern
Public Arbitrator

Signature Date

I, Steven T. Stern, Esq., do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

Steven T. Stern, Esq.

W. Jeffrey Weinlandt
W. Jeffrey Weinlandt
Industry Arbitrator

July 26, 2000
Signature Date

I, W. Jeffrey Weinlandt, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

Steven T. Stern, Esq.

July 14, 2000
Date of Service (For NASD office use only)