

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between

Names of Claimants

Trevor Resnick
Michael and Bonnie Duchowny
Allen and Susan Fuller
Ronald Fieldstone
Luis and Marielle Alvarez
L.A.A.F., LLC
Falcon Investments, Inc.
Hyman and Lillian Resnick
Arthur L. Diskin, M.D.
Harari, Porter, Blumenthal
and Brown M.D., P.A. Pension Plan

Case No. 99-01607

Name of Respondent

R.K. Grace and Co.

REPRESENTATION OF PARTIES

For Claimants Trevor Resnick ("Trevor Resnick"), Michael and Bonnie Duchowny ("Duchowny"), Allen and Susan Fuller ("Fuller"), Ronald Fieldstone ("Fieldstone"), Luis and Marielle Alvarez ("Alvarez"), L.A.A.F., LLC ("L.A.A.F."), Falcon Investments, Inc. ("Falcon"), Hyman and Lillian Resnick ("Resnick"), Arthur L. Diskin, M.D. ("Diskin"), and the Harari, Porter, Blumenthal and Brown M.D., P.A. Pension Plan ("Harari Pension") hereinafter collectively referred to as "Claimants": Barry D. Hunter, Esq. of Brown, Todd & Heyburn, PLLC, Lexington, Kentucky.

For Respondent R.K. Grace and Co. ("Grace") hereinafter referred to as "Respondent": initially, Francisco M. Lopez-Romo, Esq. South Miami, Florida. Thereafter, on or about March 14, 2000 Stephen A. Mendelsohn, Esq. of Rutherford, Mulhall & Wargo, Boca Raton, Florida entered his appearance on behalf of Respondent. The Respondent was also represented by Marc Abramson, Esq., R.K. Grace and Co., Miami, Florida.

CASE INFORMATION

Statement of Claim filed on or about: April 6, 1999
Amended Statement of Claim filed on or about: September 16, 1999.
Second Amended Statement of Claim filed on or about: May 24, 2000.

Claimant Trevor Resnick signed the Uniform Submission Agreement: March 30, 1999.
Claimants Michael and Bonnie Duchowny signed the Uniform Submission Agreement: March 24, 1999.
Claimants Allen and Susan Fuller signed the Uniform Submission Agreement: March 23, 1999.
Claimant Ronald Fieldstone signed the Uniform Submission Agreement: March 23, 1999.
Claimants Luis and Marielle Alvarez signed the Uniform Submission Agreement: March 23, 1999.
Claimant L.A.A.F signed the Uniform Submission Agreement: March 23, 1999.
Claimant Falcon signed the Uniform Submission Agreement: March 24, 1999.
Claimants Hyman and Lillian Resnick signed the Uniform Submission Agreement: March 30, 1999.
Claimant Arthur L. Diskin, M.D. signed the Uniform Submission Agreement: September 27, 1999.
Claimant Harari Pension signed the Uniform Submission Agreement: September 27, 1999.
Statement of Answer filed by Respondent on or about: December 6, 1999.
Statement of Answer to Second Amended Statement of Claim filed on or about: June 1, 2000.
Respondent signed the Uniform Submission Agreement: December 2, 1999.

CASE SUMMARY

Claimants asserted the following: The securities at issue, Coachman, Inc. ("Coachman") stock and Crown Laboratories, Inc. ("Crown") stock, were purchased based upon the favorable recommendations of Respondent. Respondent acted as the sole underwriter and placement agent with regard to those securities. Respondent earned exorbitant commissions for the purchases, more specifically, the commissions paid were ten percent (10%) or more of the purchase price paid by Claimants.

Respondent failed to warn Claimants that the Coachman stock they were purchasing was likely to, and did, become virtually worthless. Respondent's recommendation to purchase Coachman stock was therefore made for the predominant purpose of generating a commission for Respondent. These recommendations were made negligently, in breach of Respondent's fiduciary duties to Claimants, and in violation of the suitability requirements of the anti-fraud requirements of the Florida Securities Act. Respondent also engaged in common law fraud by stating projections for the Coachman stock for which Respondent had no basis for such projection and by misstating the projected book value of the stock after an anticipated buy-out. Claimants relied to their detriment on Respondent's representations.

With respect to the Crown stock, Crown was a developmental stage enterprise with no marketable product at the time that Respondent recommended that Claimants invest in said stock. Respondent made representations with regard to the Crown stock which were critical to Claimants' decision to purchase the Crown stock. The representations made were false and were made without any reasonable basis. Claimants' Crown stock is now virtually worthless. Respondent's conduct in recommending the Crown stock to Claimants constituted

negligence, breach of fiduciary duty, common law fraud and a violation of the anti-fraud provisions of the Florida Securities Act.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following: Claimants represented and warranted that they were accredited investors as that term is defined by the Securities and Exchange Commission. Claimants represented and warranted that they understood the high degree of risk involved in purchasing private placement stock, that they could afford to lose their entire investment, and that they understood that they would have to bear the economic risk for an indefinite period of time in that the stock was restricted and not registered. Claimants further represented that they received and reviewed the private placement memoranda and all exhibits, amendments and supplements thereto; that they had received or been provided access to all documents pertaining to the proposed investments; that they could bear the economic risk of the investments, hold the shares for an indefinite period of time and could sustain a total loss; that they did not acquire the stock with a view toward resale and had no reason to register the stock; that they had been made aware, via the private placement memoranda as well as via the individuals they had dealt with concerning the investments, that the investments involved a high degree of risk which could result in a total loss of the investments; and that they did not rely on any representations by any person in making their investment decision but rather relied solely upon their own investigation. Further, Respondent did not owe Claimants a fiduciary duty or duty of due care when the alleged misrepresentations were purportedly made.

RELIEF REQUESTED

Claimants requested compensatory damages of approximately \$750,000.00 plus interest and attorney's fees.

Respondent requested that all claims be dismissed in their entirety and that the costs of this action, including legal fees, be assessed against the Claimants.

OTHER ISSUES CONSIDERED AND DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

Respondent requested a dismissal of the action at the conclusion of the evidentiary hearing. The arbitration panel denied said request.

AWARD

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

Claimants' claims are denied in their entirety.

Each party shall bear their respective costs, including attorneys' fees.

All other requests for relief not specifically addressed herein are denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$375.00

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 = \$2,000.00

Pre-hearing process fee = \$ 600.00

Hearing process fee = \$3,500.00

Adjournment Fees

Adjournments requested during these proceedings:

April 3 through April 6, 2000, adjournment requested by Respondent = \$1,200.00

May 24 through May 26, 2000, adjournment requested by Respondent. The adjournment fee of \$1,000.00 was waived by the arbitrators.

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 \$450.00 = \$ 450.00

Pre-hearing conference: March 30, 2000 1 session

Four (4) Pre-hearing sessions with Panel x \$1,200.00 = \$4,800.00

Pre-hearing conferences: December 13, 1999 1 session

January 14, 2000 1 session

March 15, 2000 1 session

May 24, 2000 1 session

Six (6) Hearing sessions x \$1,200.00 = \$7,200.00

Hearing Dates:	September 13, 2000	2 sessions
	September 14, 2000	2 sessions
	September 15, 2000	2 sessions

Total Forum Fees = \$12,450.00

The Panel has assessed the total forum fees of \$12,450.00 to Respondent.

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.

No administrative costs were incurred during these proceedings.

Fee Summary

Claimants Trevor Resnick, Duchowny, Fuller, Fieldstone, Alvarez, L.A.A.F., Falcon, and Resnick be and hereby are jointly and severally liable for:

Initial Filing Fee	= \$375.00
Total Fees	= \$375.00
<u>Less payments</u>	<u>= \$375.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$0.00

Respondent R.K. Grace be and hereby is solely liable for:

Member Fees	= \$ 6,100.00
Adjournment Fee	= \$ 1,200.00
Forum Fees	= \$12,450.00
Total Fees	= \$19,750.00
<u>Less payments</u>	<u>= \$ 1,896.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$17,854.00

All fees are payable to NASD Dispute Resolution, Inc. and are due within thirty days of the Award's date of service.

Concurring Arbitrators' Signatures

/s/
Richard S. Zaifert, Esq.
Public Arbitrator, Presiding Chair

November 8, 2000
Signature Date

_____/s/_____
Michael Lukasievich, Esq.
Public Arbitrator

November 8, 2000
Signature Date

_____/s/_____
Ralph H. Emer
Industry Arbitrator

November 8, 2000
Signature Date

November 8, 2000
Date of Service (For NASD-DR office use only)

Hearing Dates:	September 13, 2000	2 sessions
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Total Forum Fees = \$12,450.00

The Panel has assessed the total forum fees of \$12,450.00 as Respondent.

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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.

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Fee Summary

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<u>Less payments</u>	<u>= \$375.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$0.00

Respondent R.K. Grace be and hereby is solely liable for:

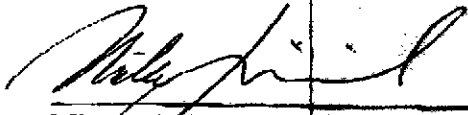
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Total Fees	= \$19,750.00
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Balance Due NASD Dispute Resolution, Inc.	= \$17,854.00

All fees are payable to NASD Dispute Resolution, Inc. and are due within thirty days of the Award's date of service.

Concurring Arbitrators' Signatures


Richard S. Ziffer, Esq.
Public Arbitrator, Presiding Chair

Nov. 8, 2000
Signature Date



Michael Lukasievich, Esq.
Public Arbitrator

11/8

Signature Date

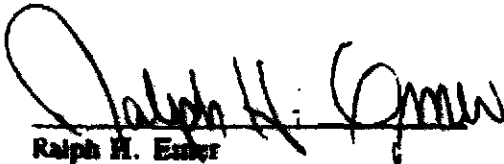
Ralph H. Emer
Industry Arbitrator

Signature Date

Date of Service (For NASD-DR office use only)

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Michael Lukasicvich, Esq.
Public Arbitrator


Ralph H. Esler
Industry Arbitrator

Signature Date

11/08/00
Signature Date

Date of Service (For NASD-DR office use only)