

**Award**  
**NASD Dispute Resolution, Inc.**

In the Matter of the Arbitration Between

Name of Claimant

Fred E. White, Jr.

Case No. 99-01821

Names of Respondents

Maidstone Financial, Inc.

Darin Pankin

Mike Newman

John Palermo

John Hopf

Hearing Site: New Orleans, Louisiana

**REPRESENTATION OF PARTIES**

For Fred E. White, Jr. ("White"), hereinafter referred to as "Claimant": Philip E. Downer, III, Esq. of Downer, Kyle & Wilhite, L.L.C., Shreveport, LA.

For Respondent Maidstone Financial, Inc. ("Maidstone"): Marc T. Koppell, New York, NY.

Respondent Darin Pankin ("Pankin") appeared pro se.

For Respondent Mike Newman ("Newman"): Stanley S. Zinner, Esq. of Greene & Zinner, P.C., White Plains, NY.

Respondent John Palermo ("Palermo") appeared pro se.

Respondent John Hopf ("Hopf") appeared pro se.

**CASE INFORMATION**

Statement of Claim filed on or about: April 19, 1999.

Claimant signed the Uniform Submission Agreement: April 16, 1999.

Respondent Maidstone did not file a Statement of Answer or an executed Uniform Submission Agreement.

Statement of Answer of Darin Pankin filed on or about: July 29, 1999.

Respondent Pankin signed the Uniform Submission Agreement: July 1, 1999.

Respondent Newman's Answer filed on or about: June 17, 1999.

Respondent Newman did not file an executed Uniform Submission Agreement.

Statement of Answer filed by Respondent Palermo on or about: June 16, 1999.

Respondent Palermo signed the Uniform Submission Agreement: June 16, 1999.

Statement of Answer of John Hopf filed on or about: June 14, 1999.  
Respondent Hopf signed the Uniform Submission Agreement: May 21, 1999.  
Respondent Hopf filed a Motion to Dismiss on or about: May 24, 2001.

### **CASE SUMMARY**

Claimant asserted the following causes of action: fraud; unfair trade practices; deceit; violation of Sections 51:712 A(2) and D of the Louisiana Revised Statutes of 1950; and, violation of Section 10(b) of the Securities Exchange Act of 1934. The causes of action relate to the purchase of Nike, Inc. Class B stock, NHTC common stock, and Univec common stock.

Unless specifically admitted in his Answer, Respondent Pankin denied the allegations made in the Statement of Claim and asserted various affirmative defenses including: Claimant failed to state a claim upon which relief can be granted; Claimant voluntarily assumed the risks involved in investing in the stock market; and, Claimant authorized, directed, and ratified all of the transactions in his account.

Unless specifically admitted in their Answers, Respondents Newman, Palermo, and Hopf denied the allegations made in the Statement of Claim.

### **RELIEF REQUESTED**

Claimant requested compensatory damages of \$257,069.50, interest, attorneys' fees, punitive damages, and other damages as may be deemed fair and just.

Respondent Pankin requested dismissal of the Statement of Claim and reimbursement of costs.

Respondent Newman requested dismissal of the Statement of Claim and expungement of all references to this matter from his regulatory history.

Respondent Palermo requested dismissal of the Statement of Claim.

Respondent Hopf requested dismissal of the Statement of Claim.

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

On or about August 31, 2000, the Panel issued an order which denied Respondent Hopf's Motion to Dismiss.

On or about October 18, 2000, counsel for Claimant informed NASD Dispute Resolution, Inc. that Claimant had dismissed, with prejudice, his claims against Respondents Palermo and Hopf.

Respondent Newman did not file with NASD Dispute Resolution, Inc. a properly executed submission to arbitration but is required to submit to arbitration pursuant to the NASD Code of

Arbitration Procedure (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.

Respondent Maidstone did not file with NASD Dispute Resolution, Inc. 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.

Respondent Maidstone did not appear in this matter. Upon review of the file and the representations made by/on behalf of the Claimant, the Panel determined that Respondent Maidstone 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 Code.

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

#### **AWARD**

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

Respondents Maidstone and Newman are liable, jointly and severally, and shall pay to Claimant the sum of \$129,200.00 plus interest at the rate of ten percent (10%) per annum which shall begin to accrue forty-five (45) days after the date of the Award and shall continue until the date of payment of the Award.

Respondent Pankin is liable and shall pay to Claimant the sum of \$25,000.00 plus interest at the rate of ten percent (10%) per annum which shall begin to accrue forty-five (45) days after the date of the Award and shall continue until the date of payment of the Award.

Respondent Maidstone is liable pursuant to Section 51:714 B of the Louisiana Revised Statutes and shall pay to Claimant punitive damages in the sum of \$250,000.00.

Respondents Maidstone, Newman, and Pankin are liable, jointly and severally, and shall pay to Claimant the sum of \$300.00 representing reimbursement of the claim filing fee previously paid by Claimant to NASD Dispute Resolution, Inc.

Any and all relief requests 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 = \$300.00

### Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm was terminated prior to service of the Statement of Claim.

### Adjournment Fees

Adjournments requested during these proceedings:

September 27-29, 2000, adjournment by Respondent Newman = \$1,125.00

February 13-15, 2001, adjournment by Respondent Newman = \$1,000.00

May 14-16, 2001, adjournment by Claimant = \$1,125.00

### Forum Fees and Assessments

The Panel has the authority to assess forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with Panel x \$1,125.00 = \$1,125.00

Pre-hearing conference: December 9, 1999 1 session = \$1,125.00

Four (4) Hearing sessions x \$1,125.00 = \$4,500.00

Hearing Dates: November 14, 2001 2 sessions

November 15, 2001 2 sessions

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Total Forum Fees = \$5,625.00

The Panel has assessed \$1,687.50 of the forum fees to Claimant.

The Panel has assessed \$3,937.50 of the forum fees jointly and severally to Respondents Maidstone, Newman, and Pankin.

### 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 in this matter.

**FEE SUMMARY**

Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$300.00
Adjournment Fee	= \$1,125.00
Forum Fees	= \$1,687.50

Total Fees	= \$3,112.50
Less payments	= \$2,550.00

Balance Due NASD Dispute Resolution, Inc.	= \$562.50
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Respondents Maidstone, Newman, and Pankin be and hereby are jointly and severally liable for:

Forum Fees	= \$3,937.50
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Total Fees	= \$3,937.50
Less payments	= \$0.00

Balance Due NASD Dispute Resolution, Inc.	= \$3,937.50
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Respondent Newman be and hereby is solely liable for:

Adjournment Fee	= \$2,125.00
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Total Fees	= \$2,125.00
Less payments	= \$2,125.00

Balance Due NASD Dispute Resolution, Inc.	= \$0.00
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All balances are payable to NASD Dispute Resolution, Inc. and are due immediately upon receipt of the Award by the parties pursuant to Rule 10330(g) of the Code.

**ARBITRATION PANEL**

Leonard J. Sullivan, Esq.	-	Public Arbitrator, Presiding Chair
Simon F. Savoie, Jr., CPA	-	Public Arbitrator
Charles A. Bosworth, III	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

/s/

Leonard J. Sullivan, Esq.  
Public Arbitrator, Presiding Chair

Signature Date

/s/

Simon F. Savoie, Jr., CPA  
Public Arbitrator

Signature Date

/s/

Charles A. Bosworth, III  
Non-Public Arbitrator

Signature Date

December 14, 2001

Date of Service (For NASD-Dispute Resolution office use only)

**FEE SUMMARY**

Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$300.00
Adjournment Fee	= \$1,125.00
Forum Fees	= \$1,687.50

Total Fees	= \$3,112.50
Less payments	= \$2,550.00

Balance Due NASD Dispute Resolution, Inc.	= \$562.50
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Respondents Maidstone, Newman, and Pankin be and hereby are jointly and severally liable for:

Forum Fees	= \$3,937.50
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Total Fees	= \$3,937.50
Less payments	= \$0.00

Balance Due NASD Dispute Resolution, Inc.	= \$3,937.50
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Respondent Newman be and hereby is solely liable for:

Adjournment Fee	= \$2,125.00
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Total Fees	= \$2,125.00
Less payments	= \$2,125.00


Balance Due NASD Dispute Resolution, Inc.	= \$0.00
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All balances are payable to NASD Dispute Resolution, Inc. and are due immediately upon receipt of the Award by the parties pursuant to Rule 10330(g) of the Code.


**ARBITRATION PANEL**

Leonard J. Sullivan, Esq.	-	Public Arbitrator, Presiding Chair
Simon F. Savoie, Jr., CPA	-	Public Arbitrator
Charles A. Bosworth, III	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

  
Leonard J. Sullivan, Esq.  
Public Arbitrator, Presiding Chair

12/13/01  
Signature Date

  
Simon F. Savoie, Jr., CPA  
Public Arbitrator

12/13/01  
Signature Date

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Charles A. Bosworth, III  
Non-Public Arbitrator

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Signature Date

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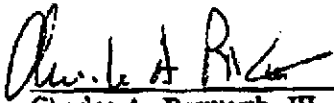
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Simon F. Savoie, Jr., CPA  
Public Arbitrator

Signature Date



Charles A. Borworth, III  
Non-Public Arbitrator

12/13/01  
Signature Date

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