

AWARD
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between

Name of Claimant

Dr. Mark Rosenberg

and

99-02063
Scottsdale, Arizona

Name of Respondents

Paradise Valley Securities, Inc.
Anthony Silverman

REPRESENTATION OF PARTIES

Dr. Mark Rosenberg ("**Claimant**") was represented by Steven J. Rosenberg, Esq., Chicago, Illinois.

Paradise Valley Securities, Inc. ("**Respondent Paradise Valley**") and Anthony Silverman ("**Respondent Silverman**") were represented by Frank W. Visciano, Esq., Senn, Lewis & Visciano, P.C., Denver, Colorado.

CASE INFORMATION

The Statement of Claim was filed on or about May 4, 1999. Claimant's Response to Respondents' Motion to Dismiss or For More Definite Statement was filed on or about August 30, 1999. Motion to Amend Statement of Claim to Include Request for Attorneys' Fees was filed on or about September 1, 1999. Second Amended Statement of Claim was filed on October 12, 1999. Claimant's Reply to Respondents' Affirmative Defenses was filed on or about December 1, 1999. Motion to Dismiss Counterclaim was filed on or about December 13, 1999. Submission Agreement of Claimant Dr. Mark Rosenberg was signed on May 25, 1999.

Respondents' Motion to Dismiss or For More Definite Statement was filed on or about August 11, 1999. Answer to Second Amended Statement of Claim was filed by Respondents Paradise Valley Securities, Inc. and Anthony Silverman on or about November 30, 1999. Counterclaim was filed on or about December 8, 1999. Submission Agreement of Respondent Paradise Valley Securities, Inc. was signed on August 12, 1999 by Jeffrey A. Silverman. Submission Agreement of Respondent Anthony Silverman was signed on August 21, 1999.

CASE SUMMARY

The parties in the Statement of Agreement to Arbitrate submitted the following summaries:

Claimant's Version

Claimant claims that he was the victim of numerous fraudulent, illegal and otherwise improper practices by the respondents including unsuitable investment recommendations, fraud, misapplication of funds, improper record keeping, unauthorized trading and self-dealing.

Respondent's Version

Claimant, a successful dermatologist with a substantial annual income and net worth, opened his initial account with Paradise Valley and Anthony Silverman, his broker, in August 1990. Over the next nine years Claimant opened three additional accounts with Respondents. At the time the initial account was opened and consistently thereafter, Claimant advised Mr. Silverman that he desired an aggressive trading strategy seeking substantial short-term growth. Over the nine-plus year period, Claimant only deposited a total of only \$205,598 in cash and stock worth \$6,723 -- a total capital contribution of only \$211,871. Yet Claimant somehow contends in his Statement of Claim that he expected this amount to grow into \$3 million through a "conservative" investment strategy. Dr. Rosenberg's stated expectation of capital appreciation, in light of his limited capital investment, underscores Respondents' position that, from the outset of the parties' relationship, the investment strategy undertaken with Dr. Rosenberg's full knowledge and consent was the same -- aggressive investments with risk seeking maximum capital gains.

Rosenberg withdrew from the four accounts, over the nine-year period, \$101,058.32 more than he, over the nine-year period, put into the four accounts. On a total capital investment of \$211,871.47, he has received cash of \$424,802.42, \$312,932.79 of which he has withdrawn, and \$111,869.63 of which remained in his IRA account as of the date of Respondent's Answer (November 23, 1999).

Dr. Rosenberg has made substantially even more on the approximately \$212,000 which he invested in his account from time to time over the nine-year period. On purchases and sales of securities (*i.e.*, closed positions) in the four accounts, Dr. Rosenberg realized net profits of \$981,176.10 as of November 23, 1999. (This amount has since increased.) The investments which he made in his Paradise Valley accounts over the nine-year period consistently were similar in nature: They involved investments in private placements, initial public offerings and aftermarket trading in micro cap companies, and all investments involved substantial, degrees of speculation and risk.

In summary, after putting into his Paradise Valley accounts only \$211,871.48 in cash and securities, and after withdrawing that entire capital contribution, the accounts generated net gains, as of November 23, 1999, of \$704,746.43 (assuming a liquidation of all open positions at the November 23, 1999 closing prices). (This amount has since increased.)

The history of the four accounts provided to Dr. Rosenberg and his counsel before this matter was filed clearly reflected that fact that the four accounts were handled by Respondents on Dr. Rosenberg's behalf on a consistent basis. Over the subject nine-year period the accounts traded in, and grew substantially as a result of, investments in speculative micro cap companies on both private placement and public market bases. These are facts that are well known to Claimant and his counsel, his financial advisors and his expert.

Respondents deny Dr. Rosenberg's assertion that they engaged in fraud, unauthorized trading, self-dealing, misapplication of funds and/or improper record keeping. Respondents contend that all trading activity was appropriate, was approved by Dr. Rosenberg, and was consistent with his investment objectives as then represented by Dr. Rosenberg. Throughout the course of the relationship, Dr. Rosenberg received confirmations of each purchase and sale in his accounts and monthly or quarterly statements reflecting all activity in the accounts.

Dr. Rosenberg was assisted from time to time, and certainly on at least an annual basis, by his accountant and by one or two attorneys acting in an advisory capacity. Over the years Dr. Rosenberg executed no less than 17 private placement documents which identified the risks involved in certain of his investments and by which he confirmed his status as a qualified investor capable of undertaking the risks associated with the investments. Dr. Rosenberg's claim of nonsuitability is meritless, as is his claim of self-dealing.

Respondents contend that Dr. Rosenberg has incurred no damages and, in fact, his accounts were handled on a substantially profitable basis if one views the nine-year relationship in its entirety. Dr. Rosenberg's annualized return (approximately 35%) on his Paradise Valley accounts over the subject nine-year period significantly exceeded the return that would be projected using an S&P approach (approximately 21%).

Respondents also asserted Counterclaims in this matter, alleging that Claimant engaged in abuse of process, tortious interference with business relations, and tortious interference with prospective business relations.

In a separate Counterclaim, Anthony Silverman asserted a claim for intentional infliction of emotional distress.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested an award of compensatory damages in the amount of \$1,219,000.00 and punitive damages in the amount of \$5,000,000.00.

In their Answer, Respondents requested that the claims asserted against them be denied in its entirety and that they be awarded their costs and attorneys' fees. In their Counterclaims, Respondents requested unspecified compensatory damages, unspecified punitive damages, attorneys' fees and costs.

OTHER ISSUES CONSIDERED & 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. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with the NASD Dispute Resolution, Inc. (the "NASD").

AWARD

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

1. The Arbitration panel finds in favor of Respondents on all counts asserted by Claimant. The claims asserted in this matter shall be and hereby are dismissed and denied in their entirety. This dismissal and denial is due to Claimant's failure to meet his burden of proof, because of applicable statutes of limitations, and due to Claimant's failure to state a claim on which relief can be granted.
2. That to the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto are denied with prejudice.
3. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys fees.

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	= \$600.00
Counter claim filing fee, Paradise Valley Securities, Inc.	= \$500.00

Counter claim filing fee, Anthony Silverman = \$250.00

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 is Paradise Valley Securities, Inc.

Member surcharge = \$3,000.00
Pre-hearing process fee = \$ 600.00
Hearing process fee = \$5,000.00

Adjournment Fees

Adjournments requested during these proceedings:
= \$1,200.00

Joint request for a postponement of February 5-9, 2001 hearing dates. Fees waived by the Arbitration Panel.

Forum Fees and Assessments

The Arbitration Panel assesses 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 \$1,200.00 = \$ 1,200.00
Pre-hearing conference(s): Date 1 session

Ten (10) Hearing sessions x \$1,200.00 = \$12,000.00
Hearing Date(s): September 10, 2001 2 sessions
 September 11, 2001 2 sessions
 September 12, 2001 2 sessions
 September 13, 2001 3 sessions
 November 1, 2001 1 session

Total Forum Fees = \$13,200.00

The Arbitration Panel has assessed \$6,600.00 of the forum fees to Dr. Mark Rosenberg.

The Arbitration Panel has assessed \$6,600.00 of the forum fees jointly and severally to Paradise Valley Securities, Inc. and Anthony Silverman.

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.

The parties agreed to pay additional compensation to each arbitrator in the amount of \$200 per hearing day. There was a total of five hearing days after the agreement of the parties for a total of \$3,000.00.

Dr. Mark Rosenberg,

\$1,500.00

Paradise Valley Securities, Inc. and Anthony Silverman, jointly and severally.

\$1,500.00

Fee Summary

Claimant, Dr. Mark Rosenberg, shall be and hereby is liable for:

Initial Filing Fee	= \$ 600.00
Adjournment Fee	= \$ 0.00
Administrative Costs	= \$1,500.00
<u>Forum Fees</u>	= \$6,600.00
Total Fees	= \$9,300.00
<u>Less payments</u>	= \$1,870.00
Balance Due NASD Dispute Resolution, Inc.	= \$7,430.00

Respondent, Paradise Valley Securities, Inc., shall be and hereby is liable for:

Counterclaim Filing Fee	= \$ 500.00
Member Fees	= \$8,600.00
Adjournment Fee	= \$ 0.00
<u>Forum Fees</u>	= \$ 0.00
Total Fees	= \$9,100.00
<u>Less payments</u>	= \$5,700.00
Balance Due NASD Dispute Resolution, Inc.	= \$3,400.00

Respondent, Anthony Silverman, shall be and hereby is liable for:

Counterclaim Filing Fee	= \$ 250.00
<u>Forum Fees</u>	= \$ 0.00
Total Fees	= \$ 250.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 250.00

Respondents, Paradise Valley Securities, Inc. and Anthony Silverman, shall be and hereby are jointly and severally liable for:

Administrative Costs	= \$1,500.00
<u>Forum Fees</u>	= \$6,600.00
Balance Due NASD Dispute Resolution, Inc.	= \$8,100.00

All balances are due to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

Richard Lieberman – Public Arbitrator, Presiding Chair
Melvin H. Borovay - Public Arbitrator
James B. Vessey - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Richard Lieberman
Richard Lieberman
Public Arbitrator, Presiding Chair

November 20, 2001
Signature Date

/s/ Melvin H. Borovay
Melvin H. Borovay
Public Arbitrator

November 14, 2001
Signature Date

/s/ James Vessey
James B. Vessey
Non-Public Arbitrator

November 9, 2001
Signature Date

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Respondent, Anthony Silverman, shall be and hereby is liable for:

Counterclaim Filing Fee	= \$ 250.00
<u>Forum Fees</u>	= \$ 0.00
Total Fees	= \$ 250.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 250.00

Respondents, Paradise Valley Securities, Inc. and Anthony Silverman, shall be and hereby are jointly and severally liable for:

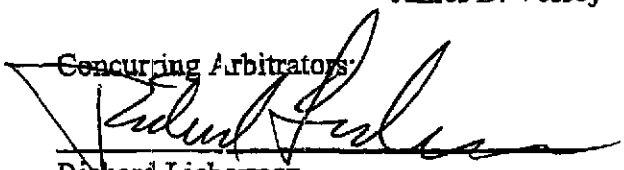
Administrative Costs	= \$1,500.00
<u>Forum Fees</u>	= \$6,600.00
Balance Due NASD Dispute Resolution, Inc.	= \$8,100.00

All balances are due to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

Richard Lieberman - Public Arbitrator, Presiding Chair
Melvin H. Borovay - Public Arbitrator
James B. Vessey - Non-Public Arbitrator

Concurring Arbitrators:


Richard Lieberman
Public Arbitrator, Presiding Chair

11/20/01
Signature Date

Melvin H. Borovay
Public Arbitrator

Signature Date

James B. Vessey
Non-Public Arbitrator

Signature Date

Respondent, Anthony Silverman, shall be and hereby is liable for:

Counterclaim Filing Fee	= \$ 250.00
<u>Forum Fees</u>	= \$ 0.00
Total Fees	= \$ 250.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 250.00

Respondents, Paradise Valley Securities, Inc. and Anthony Silverman, shall be and hereby are jointly and severally liable for:

Administrative Costs	= \$1,500.00
<u>Forum Fees</u>	= \$6,600.00
Balance Due NASD Dispute Resolution, Inc.	= \$8,100.00

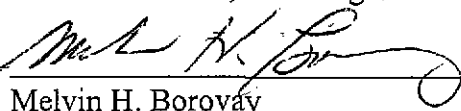
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Melvin H. Borovay - Public Arbitrator
James B. Vessey - Non-Public Arbitrator

Concurring Arbitrators:

Richard Lieberman
Public Arbitrator, Presiding Chair



Melvin H. Borovay
Public Arbitrator

Signature Date



Signature Date

James B. Vessey
Non-Public Arbitrator

Signature Date

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Arbitration No. 99-02063
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Respondent, Anthony Silverman, shall be and hereby is liable for:

Counterclaim Filing Fee	= \$ 250.00
<u>Forum Fees</u>	= \$ 0.00
Total Fees	= \$ 250.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 250.00

Respondents, Paradise Valley Securities, Inc. and Anthony Silverman, shall be and hereby are jointly and severally liable for:

Administrative Costs	= \$1,500.00
<u>Forum Fees</u>	= \$6,600.00
Balance Due NASD Dispute Resolution, Inc.	= \$8,100.00

All balances are due to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

Richard Lieberman - Public Arbitrator, Presiding Chair
Melvin H. Borovay - Public Arbitrator
James B. Vessey - Non-Public Arbitrator

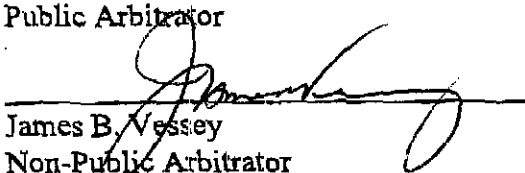
Concurring Arbitrators:

Richard Lieberman
Public Arbitrator, Presiding Chair

Signature Date

Melvin H. Borovay
Public Arbitrator

Signature Date



James B. Vessey
Non-Public Arbitrator

November 9, 2001

Signature Date