

**STIPULATED AWARD**  
**NASD**

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In the Matter of the Arbitration Between

Names of Claimants  
Karen and Paul Pucci

Case Number: 99-02763

Names of Respondents  
Josephthal & Co., Inc.  
Wayne Hemans

Hearing Site: Tampa, FL

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**REPRESENTATION OF PARTIES**

For Karen and Paul Pucci, hereinafter referred to as "Claimants": Jeffrey D. Erez, Esq. of Sonn & Associates, P.A., Ft. Lauderdale, FL.

For Respondents Josephthal & Co., Inc. ("Josephthal") and Wayne Hemans ("Hemans"), hereinafter referred to as "Respondents": John Bersin, Esq., Associate General Counsel, Josephthal, New York, NY.

**CASE INFORMATION**

Statement of Claim filed on or about: June 17, 1999.

Claimants signed the Uniform Submission Agreement: June 2, 1999.

Statement of Answer filed by Respondents Josephthal and Hemans on or about: August 23, 1999.

Respondent Josephthal signed the Uniform Submission Agreement: August 20, 1999.

Respondent Hemans did not file an executed Uniform Submission Agreement.

**CASE SUMMARY**

Claimants asserted the following causes of action: violation of Florida Statutes section 517; breach of fiduciary duty; negligence; negligent supervision; and, breach of contract. The causes of action relate to the sale of Data Broadcasting Corp. stock in Claimants' account.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted that Claimants gave Respondent Hemans discretion to sell the stock at issue and ratified the trades.

**RELIEF REQUESTED**

Claimants seek compensatory damages of \$22,850.00, statutory damages, attorneys' fees, costs, punitive damages, and interest.

Respondents requested that the Statement of Claim be dismissed, reimbursement of costs and expenses, and such other and further relief as the Panel deemed just and proper.

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

On or about February 25, 2000, the parties filed a stipulation which stated that the parties had resolved the claims asserted in this arbitration and requested that the Arbitrator enter an order expunging this matter from Respondent Hemans' registration records maintained by the NASD Central Registration Depository ("CRD").

Respondent Hemans did not file with the NASD 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, is bound by the determination of the Arbitrator on all issues submitted.

The parties have agreed that the Award in this matter may be executed in counterpart copies.

### **AWARD**

After considering the pleadings and the stipulation submitted by counsel, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

The Arbitrator recommends the expungement of all references to the above-captioned arbitration from Respondent Wayne Hemans registration records maintained by the NASD CRD and Form U-4, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Wayne Hemans must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

NASD will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$ 125.00

#### **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 a party.

Member surcharge = \$ 400.00

#### **Forum Fees and Assessments**

The Arbitrator has assessed forum fees for each session conducted. A session is any meeting between the parties and the arbitrator, including a pre-hearing conference with the arbitrator, 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: December 2, 1999 1 session

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Total Forum Fees = \$ 450.00

The Arbitrator has assessed \$225.00 of the forum fees jointly and severally to Claimants.  
The Arbitrator has assessed \$225.00 of the forum fees jointly and severally to Respondents Josephthal and Hemans.

**Adjournment Fees**

Adjournments requested during these proceedings:

No requests for adjournment were filed in this matter.

**FEE SUMMARY**

Claimants be and hereby are jointly and severally liable for:

Initial Filing Fee = \$125.00  
Forum Fees = \$225.00

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Total Fees = \$350.00  
Less payments = \$350.00

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Balance Due NASD = \$0.00

Respondent Josephthal be and hereby is solely liable for:

Member Fees = \$400.00

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Total Fees = \$400.00  
Less payments = \$400.00

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Balance Due NASD = \$0.00

Respondents Josephthal and Hemans be and hereby are jointly and severally liable for:

Forum Fees = \$225.00

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Total Fees = \$225.00  
Less payments = \$225.00

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Balance Due NASD = \$0.00

All balances are payable to NASD and are due upon receipt pursuant to Rule 10330(g) of the Code.

**ARBITRATION PANEL**

Sandra J. Galloway

- Public Arbitrator, Presiding Chair

**Arbitrator's Signature**

/s/

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Sandra J. Galloway  
Public Arbitrator

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Signature Date

November 18, 2002

Date of Service (For NASD office use only)

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**ARBITRATION PANEL**

Sandra J. Galloway

Public Arbitrator, Presiding Chair

**Arbitrator's Signature**



Sandra J. Galloway  
Public Arbitrator

11/04/02  
Signature Date

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Date of Service (For NASD office use only)