

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Michael Nocera, (Claimant) vs. Jeffery Lent and Tucker Anthony, Inc. (Respondents)

Case Number: 99-03159

Hearing Site: Boston, Massachusetts

REPRESENTATION OF PARTIES

Claimant, Michael Nocera, hereinafter referred to as "Claimant": Grover S. Parnell, Jr., Esq., Finneran & Nicholson, PC, Boston, MA.

Respondents, Jeffrey Lent ("Lent") and Tucker Anthony, Inc. ("Tucker"), hereinafter collectively referred to as "Respondents": Kristin G. McGurn, Esq., Finnegan, Hickey, Dinsmoor & Johnson, P.C., Boston, MA.

CASE INFORMATION

Statement of Claim filed on or about: July 8, 1999.

Claimant signed the Uniform Submission Agreement: July 1, 1999.

Joint Statement of Answer filed by Respondents on or about: January 13, 2000.

Lent signed the Uniform Submission Agreement.

Tucker signed the Uniform Submission Agreement: January 13, 2000.

CASE SUMMARY

Claimant asserted the following causes of action: breach of contract; violation of the NASD Rules of Conduct; violation of the Massachusetts Uniform Securities Act; misrepresentation; suitability and failure to supervise. Claimant's claim involved shares of Genzyme Corp., Grossmans, Inc., Informix Corp., Conductus, Inc., Quantum, and Dense Pacific Microsystems.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses: Claimant fails to state any claim upon which relief can be granted; Claimant is barred from recovery by the applicable statutes of limitations; Claimant is barred from recovery by the doctrines of laches waiver and estoppel; all transactions were either ratified expressly or constructively by the Claimant's actions and/or inaction, because all transactions in Claimant's account were in accord with his representations and, pursuant to his client cash account agreement, that "statements of his account shall be conclusive if not objected to in writing forthwith;" at all times material hereto,

Claimant knew and was aware of the risks associated with his investments and voluntarily chose to assume those risks; the actions of Respondents' were not the proximate causes of Claimant's losses, if any; Claimant cannot establish the elements of an unsuitability claim; at all material times, and in all relevant matters, Respondents acted in good faith; Claimant did not reasonably rely on any statements or omissions attributable to the Respondents; Respondents are not liable, because they had no duty, contractual or otherwise, to disclose or inform Claimant of any facts other than those which were disclosed, nor did Respondents breach any duty to Claimant, if such a duty existed; Claimant's claim is barred by his own contributory negligence in connection with his investments; the Panel may not award Claimant attorneys' fees; Claimant's claims are based, in part, on allegations that the rules of the NASD were violated, but there is private right of action for such claims and they should be dismissed for failing to state a claim for which relief can be granted; Claimant failed to mitigate his losses, if any; and Claimant's losses, if any, were the result of superseding and/or intervening economic and market forces beyond Respondents' control.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$140,000.00, plus statutory interest, costs and attorneys' fees. Claimant further requested to recover lost investment opportunity damages from the dates that he invested his funds in the recommendations made by Lent.

Respondents requested that this matter be dismissed in its entirety and that they be awarded their costs.

OTHER ISSUES CONSIDERED AND DECIDED

On January 8, 2001, Respondents submitted a Motion for Summary Judgement which was denied.

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.

AWARD

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

1. Claimant's claims are hereby denied in their entirety.
2. All other requests for relief are hereby 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
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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, Tucker Anthony, Inc. is a party.

Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$2,500.00

Adjournment Fees

Adjournments requested during these proceedings:

December 18, 20 & 21, 2000, adjournment by Claimant & Respondents	= \$ 562.50 each
March 1 & 2, 2001, adjournment by Lent	= \$1,000.00
March 14 & 15, 2001, adjournment by Claimant	= \$1,000.00

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:

Two (2) Pre-hearing sessions with Panel x \$1,125.00			= \$2,250.00
Pre-hearing conferences:	July 27, 2000	1 session	
	February 20, 2001	1 session	
Four (4) Hearing sessions x \$1,125.00			= \$4,500.00
Hearing Dates:	May 14, 2001	2 sessions	
	May 15, 2001	2 sessions	
Total Forum Fees			= \$6,750.00

1. The Panel has assessed \$3,375.00 of the forum fees against Claimant.
2. The Panel has assessed \$3,375.00 of the forum fees jointly and severally against Respondents.

Fee Summary

1. Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$ 300.00
Adjournment Fees	= \$1,562.50
<u>Forum Fees</u>	= \$3,375.00
Total Fees	= \$5,237.50
<u>Less payments</u>	= \$2,987.50
Balance Due NASD Dispute Resolution, Inc.	= \$2,250.00

2. Tucker be and hereby is solely liable for:

<u>Member Fees</u>	= \$5,600.00
Total Fees	= \$5,600.00
<u>Less payments</u>	= \$5,600.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

3. Respondents be and hereby are jointly and severally liable for:

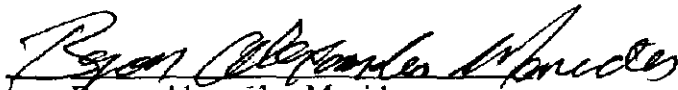
Adjournment Fees	= \$1,562.50
Forum Fees	= \$3,375.00
Total Fees	= \$4,937.50
Less Payments	= \$ 562.50
Balance Due NASD Dispute Resolution, Inc.	= \$4,375.00

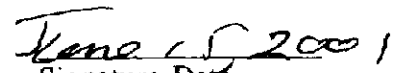
All balances are due and payable to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

<i>Byron Alexander Menides</i>	-	<i>Public Arbitrator, Presiding Chair</i>
<i>Jeffrey P. Petrucelly, Esq.</i>	-	<i>Public Arbitrator</i>
<i>James E. Fox</i>	-	<i>Industry Arbitrator</i>

Concurring Arbitrators' Signatures


Byron Alexander Menides
Public Arbitrator, Presiding Chair


Signature Date

Jeffrey P. Petrucelly, Esq.
Public Arbitrator

Signature Date

James E. Fox
Industry Arbitrator

Signature Date

June 20, 2001
Date of Service (For NASD office use only)

NASD Dispute Resolution, Inc.
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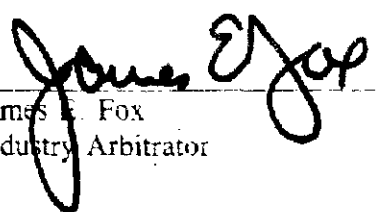
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Industry Arbitrator



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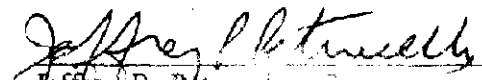
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Byron Alexander Menides
Public Arbitrator, Presiding Chair

Signature Date


Jeffrey P. Petrucelly, Esq.
Public Arbitrator

6/15/01
Signature Date

James E. Fox
Industry Arbitrator

Signature Date

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