

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Steve L. Carson and Jean Carson, (Claimants) v. Gaines, Berland, Inc., Joseph Berland, Arthur Mel Coffey, Michael Avella, Jr., Vincent Antonio Mangone, Eric Lee Miller, Richard John Rosenstock, Mark David Zeitchick, and GBI Capital Management Corporation, (Respondents)

Case Number: 99-03292

Hearing Site: Chicago, Illinois

REPRESENTATION OF PARTIES

Claimant Steve L. Carson and Jean Carson ("Carson"): Marcia L. Ford, Esq., Reinhardt & Anderson, Saint Paul, Minnesota.

Respondent Gaines, Berland, Inc. ("Gaines Berland"), Joseph Berland ("Berland"), Arthur Mel Coffey ("Coffey"), Michael Avella, Jr. ("Avella"), Vincent Antonio Mangone ("Mangone"), Eric Lee Miller ("Miller"), Richard John Rosenstock ("Rosenstock"), Mark David Zeitchick ("Zeitchick"), and GBI Capital Management Corporation ("GBI Capital"), hereinafter collectively referred to as "Respondents": Mark J. Astarita, Esq., Beam & Astarita, Bloomsfield, New Jersey

CASE INFORMATION

Statement of Claim filed on or about: July 20, 1999

Amended Statement of Claim filed on or about: March 23, 2000

Second Amended Statement of Claim filed on or about: February 01, 2001

Claimants signed the Uniform Submission Agreement: June 17, 1999

Claimants' Response to Motion to Dismiss filed by Respondents Berland, Mangone, Rosenstock, Miller, Avella, and Zeitchick on or about: February 01, 2001

Statement of Answer filed by Respondents on or about: May 11, 2000

Motion to Dismiss filed by Respondents Berland, Mangone, Rosenstock, Miller, Avella, and Zeitchick on or about: January 19, 2001

Reply to Claimant's Response to Motion to Dismiss filed by Respondents Berland, Mangone, Rosenstock, Miller, Avella, and Zeitchick on or about: February 07, 2001

CASE SUMMARY

Claimant Steve L. Carson and Jean Carson asserted the following causes of action: *Churning, Common Law Fraud, Unsuitability, Breach of Fiduciary Duty, Violation of the Illinois Consumer Fraud Act, Violation of Illinois Securities Law of 1953, Respondeat Superior Liability, and Negligent Supervision.*

The causes of action relate to the order execution of the Cintas Corporation Common Stock.

Unless specifically admitted in its Answer, Respondents Gaines, Berland, Inc., Joseph Berland, Arthur Mel Coffey, Michael Avella, Jr., Vincent Antonio Mangone, Eric Lee Miller, Richard John Rosenstock, Mark David Zeitchick, and GBI Capital Management Corporation denied the allegations made in the Statement of Claim.

RELIEF REQUESTED

Claimant Steve L. Carson and Jean Carson requested:

Compensatory Damages	\$1,764,000.00
Punitive Damages	\$1,782,000.00
Interest	unspecified
Attorneys' Fees	unspecified
Other Costs	unspecified
Other Monetary/Non-Monetary Relief if any:	as deemed appropriate

Respondent Gaines, Berland, Inc., Joseph Berland, Arthur Mel Coffey, Michael Avella, Jr., Vincent Antonio Mangone, Eric Lee Miller, Richard John Rosenstock, Mark David Zeitchick, and GBI Capital Management Corporation requested:

Other Monetary/Non-Monetary Relief if any: dismissal of claims

OTHER ISSUES CONSIDERED AND DECIDED

Respondents did not file with NASD Dispute Resolution, Inc. a properly executed submission to arbitration but are required to submit to arbitration pursuant to the Code and, having answered the claim, appeared and testified at the hearing, are bound by the determination of the Panel on all issues submitted.

After reviewing of the Respondents' Motion to Dismiss, Claimant's Response, and Respondents' Reply that panel denied the Motion with respect to Gaines Berland, Inc. and Arthur Coffey and granted the Motion with respect to Respondents Joseph Berland, Michael Avella, Jr., Vincent Antonio Mangone, Eric Lee Miller, Richard John Rosenstock, Mark David Zeitchick, and GBI Capital Management Corporation.

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. Respondents Gaines Berland, Inc. and Arthur Mel Coffey are jointly and severally liable to Claimants Steve Carson and Jean Carson in the sum of \$267,205.00 as compensatory damages.
2. Respondents Joseph Berland, Michael Avella, Jr., Vincent Antonio Mangone, Eric Lee Miller, Richard John Rosenstock, Mark David Zeitchick, and GBI Capital Management Corporation are dismissed with prejudice.
3. Any and all costs incurred shall be paid by the party incurring them.
4. Any and all relief not specifically addressed herein, including punitive damages, is 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	= \$ 500.00
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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, the member firm is a party.

Member surcharge	= \$2,000.00
Pre-hearing process fee	= \$ 600.00
<u>Hearing process fee</u>	<u>= \$4,500.00</u>
Total Member Fees	= \$7,100.00

Adjournment Fees

Adjournments requested during these proceedings:

February 05 -09, 2001 by Respondent Gaines Berland	= \$ 1,200.00
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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 arbitrators, including a pre-

hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

Five (5) Pre-hearing sessions with Panel x \$1,200.00		= \$ 6,000.00
Pre-hearing conferences:		
August 18, 2000	1 session	
November 13, 2000	1 session	
December 01, 2000	1 session	
January 08, 2001	1 session	
February 09, 2001	1 session	
Ten (10) Hearing sessions x \$1,200.00		= \$12,000.00
Hearing Dates:		
July 09, 2001	2 sessions	
July 10, 2001	2 sessions	
July 11, 2001	2 sessions	
July 12, 2001	2 sessions	
July 13, 2001	2 sessions	
Total Forum Fees		= \$18,000.00

The panel has assessed \$18,000.00 of the forum fees to Respondent Gaines Berland, Inc.

Fee Summary

1. Claimant Steve L. Carson and Jean Carson solely liable for:

<u>Initial Filing Fee</u>	= \$ 500.00
Total Fees	= \$ 500.00
<u>Less payments</u>	= \$ 1,700.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 1,200.00

2. Respondent Gaines, Berland, Inc. is solely liable for:

Member Fees	= \$ 7,100.00
Adjournment Fee	= \$ 1,200.00
Forum Fees	= \$18,000.00
Total Fees	= \$26,300.00
<u>Less payments</u>	= \$ 7,925.28
Balance Due NASD Dispute Resolution, Inc.	= \$18,374.72

All balances are due to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

Champ W. Davis, Jr., Esq.	-	Public Arbitrator, Presiding Chair
James J. Eccleston, Esq.	-	Public Arbitrator
Randall C. Schakner	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/ Champ W. Davis, Jr.

09/10/01

Champ W. Davis, Jr., Esq.
Public Arbitrator, Presiding Chair

Signature Date

/s/ James J. Eccleston

09/10/01

James J. Eccleston, Esq.
Public Arbitrator

Signature Date

/s/ Randall C. Schakner

09/07/01

Randall C. Schakner
Non-Public Arbitrator

Signature Date

09/10/01

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


NASD Dispute Resolution, Inc.
Arbitration Case #: 99-03292
Page 5 of 5

ARBITRATION PANEL

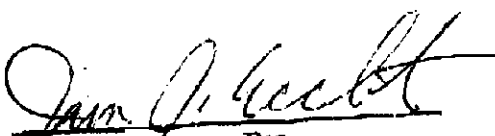
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Public Arbitrator, Presiding Chair
Public Arbitrator
Non-Public Arbitrator

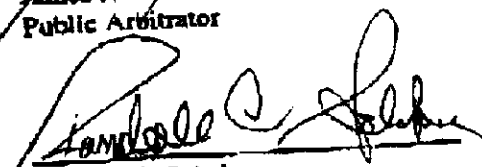
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Champ W. Davis, Jr., Esq.
Public Arbitrator, Presiding Chair

9/10/01
Signature Date


James J. Eccleston, Esq.
Public Arbitrator

9/10/01
Signature Date


Randall C. Schakner
Non-Public Arbitrator

9-7-01
Signature Date

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