

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Charles Higgins, John Fagot, Arlene Schmitter, Ray Blumer, S & V Associates, Alan Dillenberg, Yesterday Amusement Co., Inc., Phil Virga, Cliff Masticola, John Bascom, Neil T. Callaway, Robert Davison, John Franz, Don Gustafson, Dennis Goldman, Mark Lacob, Paul Montal, and Craig Birkelbach, Claimants v. The Boston Group, Brookehill Equities, Inc. and Joseph M. Salvani, Respondents

Joseph M. Salvani, Cross-Claimant v. The Boston Group, Inc., Cross-Respondent

Case Number: 99-04205

Hearing Site: Los Angeles, California

REPRESENTATION OF PARTIES

For Claimants:

Dan A. Druz, Esq.
Law Offices of Dan A Druz
Manasquan, New Jersey

For Respondent The Boston Group:

Kye Hellmers
The Boston Group
Los Angeles, California

For Respondent Brookehill Equities, Inc.:

Richard J. Blumberg, Esq.
McLaughlin & Stern, LLP
New York, New York

For Respondent Joseph M. Salvani:

Berthold H. Hoeniger, Esq.
Berthold H. Hoeniger, P.C.
New York, New York

CASE INFORMATION

Statement of Claim filed: August 31, 1999

First Amended Statement of Claim filed: May 2, 2000

Claimants' Opposition to Respondent Brookehill Equities, Inc. and Respondent/Cross-Claimant Joseph M. Salvani's Motion to Dismiss filed: February 1, 2001

Claimants' Opposition to Respondent/Cross-Claimant Joseph M. Salvani's Motion to Dismiss
filed: February 16, 2001

Reply to Claimants' Opposition to Respondent Brookehill Equities, Inc.'s Motion to Dismiss
filed: February 12, 2001

Claimant Charles Higgins' Uniform Submission Agreement signed: August 2, 1999 and
November 15, 1999

Claimant John Fagot's Uniform Submission Agreement signed: August 17, 1999

Claimant Arlene Schmitter's Uniform Submission Agreement signed: August 6, 1999

Claimant Ray Blumer's Uniform Submission Agreement signed: August 12, 1999

Claimant Alan Dillenberg's Uniform Submission Agreement signed: August 9, 1999

Claimant Yesterday Amusement Co., Inc.'s Uniform Submission Agreement signed: August 5, 1999

Claimant Phil Virga's Uniform Submission Agreement signed: August 4, 1999

Claimant Cliff Masticola's Uniform Submission Agreement signed: July 12, 1999

Claimant John Bascom's Uniform Submission Agreement signed: August 2, 1999

Claimant Neil T. Callaway's Uniform Submission Agreement signed: July 6, 1999

Claimant Robert Davison's Uniform Submission Agreement signed: July 10, 1999

Claimant John Franz's Uniform Submission Agreement signed: July 21, 1999

Claimant Don Gustafson's Uniform Submission Agreement signed: July 7, 1999

Claimant Dennis Goldman's Uniform Submission Agreement signed: July 6, 1999

Claimant Mark Lacob's Uniform Submission Agreement signed: July 7, 1999

Claimant Paul Montal's Uniform Submission Agreement signed: July 6, 1999

Statement of Answer to Amended Statement of Claim and Motion to Dismiss filed by
Respondent Brookehill Equities, Inc.: June 13, 2000

Reply and Joinder to Respondent Joseph M. Salvani's Motion to Dismiss filed by Respondent Brookehill Equities, Inc.: August 20, 2001

Supplement to Respondent Brookehill Equities, Inc.'s Motion to Dismiss filed: September 7, 2001

Statement of Answer to Amended Statement of Claim, Cross-Claim, and Motion to Dismiss filed by Respondent/Cross-Claimant Joseph M. Salvani: June 15, 2000

Motion to Dismiss filed by Respondent/Cross-Claimant Joseph M. Salvani: July 19, 2001

Respondent Brookehill Equities, Inc. and Respondent/Cross-Claimant Joseph M. Salvani's Arbitration Brief filed: September 24, 2001

Respondent/Cross-Claimant Joseph M. Salvani's Uniform Submission Agreement signed: June 30, 2000

CASE SUMMARY

In their Statements of Claim, Claimants alleged fraud, negligence, and violations of federal and state securities laws and NASD Rules of Fair Practice. The dispute involved the purchase and/or sale of Medical Device Alliance, Inc. stock.

Respondent Brookehill Equities, Inc. and Respondent/Cross-Claimant Joseph M. Salvani denied the allegations of wrongdoing set forth in the Claimants' Statements of Claim.

In his Cross-Claim, Respondent/Cross-Claimant Joseph M. Salvani alleged misrepresentation and negligence.

Respondent The Boston Group did not file a Statement of Answer to the Statements of Claim or Cross-Claim.

RELIEF REQUESTED

Claimants requested unspecified compensatory damages, exemplary damages, interest, arbitration costs, and attorney's fees.

Respondent Brookehill Equities, Inc. and Respondent/Cross-Claimant Joseph M. Salvani requested dismissal of the Claimants' Statement of Claim in their entirety and arbitration costs. Additionally, in his Cross-Claim, Respondent/Cross-Claimant Joseph M. Salvani requested indemnification.

OTHER ISSUES CONSIDERED AND DECIDED

Claimants S & V Associates and Craig Birkelbach, added as parties in Claimants' Amended Statement of Claim, did not submit Uniform Submission Agreements.

On September 18, 2001, the Arbitration Panel granted Respondent Brookehill Equities, Inc.'s Motion to Dismiss. Respondent Brookehill Equities, Inc. was dismissed with prejudice.

On September 18, 2001, the Arbitration Panel granted Respondent/Cross-Claimant Joseph M. Salvani's Motion to Dismiss. Respondent/Cross-Claimant Joseph M. Salvani was dismissed with prejudice.

Upon review of the file and the representations made on behalf of the Claimants, the undersigned Panel determined that Respondent The Boston Group was properly served with the Statements 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 NASD Code of Arbitration Procedure (the "Code").

Respondent The Boston Group did not file with the NASD Dispute Resolution, Inc. a properly executed submission agreement 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 Brookehill Equities, Inc. did not file with the NASD Dispute Resolution, Inc. a properly executed submission agreement but is required to submit to arbitration pursuant to the Code and having answered the claim, is bound by the determination of the Panel on all issues submitted.

The parties 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, testimony, and evidence presented at the hearing, and the post-hearing submissions, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Claimants' claims are denied in their entirety.
- 2) Respondent The Boston Group is dismissed with prejudice.
- 3) Claimants are jointly and severally liable to and shall pay Respondent Brookehill Equities, Inc. \$8,628.35 in attorney's fees pursuant to Respondent Brookehill Equities, Inc. and Respondent/Cross-Claimant Joseph M. Salvani's Arbitration Brief.
- 4) Claimants are jointly and severally liable to and shall pay Respondent/Cross-Claimant Joseph M. Salvani \$27,976.00 in attorney's fees pursuant to Respondent Brookehill Equities, Inc. and Respondent/Cross-Claimant Joseph M. Salvani's Arbitration Brief.
- 5) Claimants are jointly and severally liable to and shall pay Respondent's Counsel, Richard J. Blumberg, \$250.00 in sanctions.
- 6) Claimants are jointly and severally liable to and shall pay Respondent's Counsel, Berthold H. Hoeniger, \$250.00 in sanctions.
- 7) Claimants are jointly and severally liable to and shall pay Respondent/Cross-Claimant Joseph M. Salvani \$1,250.00 for reimbursement of filing fees.
- 8) Respondent/Cross-Claimant Joseph M. Salvani's Cross-Claim is dismissed with prejudice.
- 9) Except as noted above, the parties shall bear their respective costs, including attorney's fees.
- 10) All other relief requested and not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution, Inc. received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 250.00
Respondent/Cross-Claimant Joseph M. Salvani's Cross-Claim filing fee	= \$ 250.00

Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events which gave rise to the dispute, claim, or controversy. Accordingly, the member firm Brookehill Equities, Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 1,200.00
Pre-Hearing Process Fee	= \$ 600.00
Hearing Process Fee	= \$ 2,000.00
Total Member Fees	= \$ 3,800.00

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Panel. The following fees are assessed:

1 Pre-hearing conference session with the Panel @ \$ 1,000.00/session	= \$ 1,000.00
Pre-hearing conference: January 3, 2001 1 session	
1 Hearing session @ \$ 1,000.00/session	= \$ 1,000.00
Hearing: October 18, 2001 1 session	
Total Forum Fees	= \$ 2,000.00

1. The Panel assessed \$ 1,000.00 of the forum fees jointly and severally to Claimants Charles Higgins, John Fagot, Arlene Schmitter, Ray Blumer, S & V Associates, Alan Dillenberg, Yesterday Amusement Co., Inc., Phil Virga, Cliff Masticola, John Bascom, Neil T. Callaway, Robert Davison, John Franz, Don Gustafson, Dennis Goldman, Mark Lacob, Paul Montal, and Craig Birkelbach.
2. The Panel assessed \$ 1,000.00 of the forum fees jointly and severally to Respondent Brookehill Equities, Inc. and Respondent/Cross-Claimant Joseph M. Salvani.

Fee Summary

1. Claimants Charles Higgins, John Fagot, Arlene Schmitter, Ray Blumer, S & V Associates, Alan Dillenberg, Yesterday Amusement Co., Inc., Phil Virga, Cliff Masticola, John Bascom, Neil T. Callaway, Robert Davison, John Franz, Don Gustafson, Dennis Goldman, Mark Lacob, Paul Montal, and Craig Birkelbach are charged jointly and severally with the following fees and costs:

Initial Filing Fee	= \$ 250.00
Forum Fees	= \$ 1,000.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 1,250.00

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2. Respondent Brookehill Equities, Inc. is charged with the following fees and costs:

Member Fees	= \$ 3,800.00
<u>Less Payment</u>	= \$(3,800.00)
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

3. Respondent/Cross-Claimant Joseph M. Salvani is charged jointly and severally with the following fees and costs:

Counter-Claim Filing Fee	= \$ 250.00
<u>Less Payment</u>	= \$ (250.00)
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

4. Respondent Brookehill Equities, Inc. and Respondent/Cross-Claimant Joseph M. Salvani are charged with the following fees and costs:

Forum Fees	= \$ 1,000.00
<u>Less Payment by Joseph M. Salvani</u>	= \$(1,000.00)
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

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

ARBITRATION PANEL

Catherine F. Hughes, Esq.	-	Public Arbitrator, Presiding Chair
Katherine Jane Morris	-	Public Arbitrator
Mary H. Evans, J.D.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures


Catherine F. Hughes, Esq.
Chair, Public Arbitrator

12/14/01
Signature Date

Katherine Jane Morris
Public Arbitrator

Signature Date

Katherine Jane Morris
Public Arbitrator

Mary H. Evans, J.D.
Non-Public Arbitrator

Signature Date

Mary H. Evans, J.D.
Non-Public Arbitrator

12/15/01
Date of Service

ARBITRATION PANEL

Catherine F. Hughes, Esq.	-	Public Arbitrator, Presiding Chair
Katherine Jane Morris	-	Public Arbitrator
Mary H. Evans, J.D.	-	Non-Public Arbitrator

Consenting Arbitrators' Signatures

Catherine F. Hughes, Esq.
Chair, Public Arbitrator

Signature Date

Katherine Jane Morris
Katherine Jane Morris
Public Arbitrator

12/4/01
Signature Date

Katherine Jane Morris
Katherine Jane Morris
Public Arbitrator

Mary H. Evans, J.D.
Non-Public Arbitrator

Signature Date

12/5/01
Date of Service

ARBITRATION PANEL

Catherine F. Hughes, Esq.	-	Public Arbitrator, Presiding Chair
Katherine Jane Morris	-	Public Arbitrator
Mary H. Evans, J.D.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Catherine F. Hughes, Esq.
Chair, Public Arbitrator

Signature Date

Catherine F. Hughes, Esq.
Chair, Public Arbitrator

Katherine Jane Morris
Public Arbitrator

Signature Date

Katherine Jane Morris
Public Arbitrator

Mary H. Evans, J.D.
Non-Public Arbitrator

Signature Date

12/5/01
Date of Service