

**Award**  
**NASD Dispute Resolution, Inc.**

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In the Matter of the Arbitration Between

**Names of Claimants**

Stuart and Kerry Leaderman

Case No. 99-04491

**Names of Respondents**

Barron Chase Securities, Inc.  
Robert Thomas Kirk, Jr.  
John Nicholas Bosco  
Tyler Christopher Wilson

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**REPRESENTATION OF PARTIES**

For Stuart and Kerry Leaderman ("Leaderman"), hereinafter collectively referred to as "Claimants": Steven D. Toskes, Esq. and Lawrence Klayman, Esq., Klayman, Lazarus & Toskes, P.A., Boca Raton, Florida.

For Barron Chase Securities, Inc. ("Barron Chase"): Brett A. Verona, Esq., Tampa, Florida until his withdrawal as counsel on November 21, 2000. Thereafter, Respondent Barron Chase did not appear.

For Robert Thomas Kirk, Jr. ("Kirk"): Brett A. Verona, Esq., Tampa, Florida until his withdrawal as counsel on November 21, 2000. Thereafter, Respondent Kirk was represented by Eugene Michael Kennedy, Esq., Fort Lauderdale, Florida.

Respondent John Nicholas Bosco ("Bosco") did not appear.

Respondent Tyler Christopher Wilson ("Wilson") did not appear.

**CASE INFORMATION**

Statement of Claim filed on or about: October 4, 1999.

Claimants signed the Uniform Submission Agreement: November 8, 1999.

Statement of Answer filed by Respondents Barron Chase and Kirk on or about: January 21, 2000.

Respondent Barron Chase signed the Uniform Submission Agreement: December 3, 1999.

Respondent Kirk signed the Uniform Submission Agreement: December 6, 1999.

Respondent Bosco did not file a Statement of Answer.

Respondent Bosco did not file an executed Uniform Submission Agreement.  
Respondent Wilson did not file a Statement of Answer.  
Respondent Bosco did not file an executed Uniform Submission Agreement.

### **CASE SUMMARY**

Claimants asserted the following: Respondent Kirk was, at all times material, the President and a principal of Respondent Barron Chase. Respondent Bosco was Claimants' account executive and financial consultant at Respondent Barron Chase from May 1998 until July 1998. Respondent Wilson was Claimants' account executive and financial consultant at Respondent Barron Chase from August 1998 through March 1999. Respondents engaged in, or knew of and substantially assisted in, unlawful acts against Claimants. Respondent Barron Chase failed to diligently and properly supervise its officers, employees and agents and is liable for the acts and omissions of the individual Respondents under the legal doctrine of respondeat superior. Respondent Bosco contacted Claimants and made a series of recommendations to Claimants in what Respondent Bosco knew to be speculative and volatile securities. Respondents steered Claimants into Rick's Cabaret and Flexweight/OASIS securities for the purpose of defrauding Claimants as part of an overall scheme to manipulate the stocks in which Respondent Barron Chase was an underwriter. Further, Respondents breached their fiduciary and contractual duties to Claimants. Respondents made misrepresentations and omissions with the intent to mislead Claimants and to have Claimants rely on said misrepresentations and omissions. At a minimum, the misrepresentations were done recklessly and without knowledge of their truth or falsity. Claimants relied on the misrepresentations and omissions to their detriment. Respondents violated NASD rules, SEC rules, the State Act and Administrative Codes and Respondent Barron Chase's own internal guidelines which violations constituted negligence.

Unless specifically admitted in their Answer, Respondents Barron Chase and Kirk denied the allegations made in the Statement of Claim and asserted the following: The transactions in the account were consistent with Claimants' investment objectives. Claimants had full knowledge of all investments and the market risks involved. Claimants approved all transactions in the account which were then properly effected by Respondent Barron Chase. Claimants were fully informed and voluntarily and knowingly assumed the risks relating to transactions in their account. Claimants' assumption of risk was the direct and proximate cause of any damage which may have been suffered by Claimants. Respondents did not violate the laws of the state of Oklahoma, the United States or any rules propounded by the SEC or NASD. Claimants are not entitled to receive any damages for the mere decline in the price of securities, a price over which Respondents have no control.

### **RELIEF REQUESTED**

Claimants requested compensatory damages at the hearing of \$422,809.00 for actual losses plus \$541,215.00 for lost opportunity costs, prejudgment interest at the rate of 10%, punitive damages constituting a multiple of compensatory damages, attorneys' fees, costs of this action, and such other relief as the Arbitrators deemed appropriate under the circumstances.

Respondents Barron Chase and Kirk requested that all claims be dismissed in their entirety, and that Respondents be awarded reasonable costs and fees as the Panel deemed warranted.

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

Respondent Barron Chase did not attend the evidentiary hearing in this matter. Upon review of the file and the representations made on behalf of the Claimants, the undersigned arbitrators determined that Respondent Barron Chase has been properly served with the Statement 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-DR Code of Arbitration Procedure (the "Code").

The arbitration panel determined that Respondents Bosco and Wilson were not properly served in accordance with Rule 10314(c) of the Code. As such, said parties were not provided with due notice of the proceedings against them. Therefore, liability could not be determined as to Respondents Bosco or Wilson and the arbitration panel determined to dismiss, without prejudice, all claims against Respondents Bosco and Wilson.

The parties present at the hearing 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, and the post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Respondents Barron Chase and Kirk are liable, jointly and severally, and shall pay to Claimants the sum of \$359,013.00 as compensatory damages plus interest at the rate of 10% per annum from October 4, 1999 until the date of payment of the Award.

Claimants shall recover reasonable attorney's fees from Respondents Barron Chase and Kirk, jointly and severally, if and to the extent, permitted by Florida Statute Section 517.211, by a court of competent jurisdiction.

All claims against Respondents Bosco and Wilson are dismissed, without prejudice.

Claimants' request for punitive damages is denied.

Liability is found against Respondents Barron Chase and Kirk and damages awarded with respect only to Counts I and III of the Statement of Claim. Liability pursuant to Count II and IV is hereby denied.

All other requests for relief not specifically addressed herein are 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 persons at the time of the events giving rise to the dispute. In this matter, the member firm is a party.

Member surcharge	= \$2,500.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$4,500.00

#### **Adjournment Fees**

Adjournments requested during these proceedings:

December 11 through 14, 2000, adjournment requested by Respondent Kirk was denied by the arbitration panel.

#### **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:

One (1) Pre-hearing session with Panel x \$1,200.00	= \$1,200.00
Pre-hearing conference: May 10, 2000	1 session
Six (6) Hearing sessions x \$1,200.00	= <u>\$7,200.00</u>
Hearing Dates: December 11, 2000	2 sessions
December 12, 2000	2 sessions
December 13, 2000	1 session
December 14, 2000	1 session
Total Forum Fees	= \$8,400.00

The Panel has assessed the total forum fees of \$8,400.00 jointly and severally to Respondents Barron Chase and Kirk.

#### **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.

No administrative costs were incurred during these proceedings.

**Fee Summary**

Claimants be and hereby are jointly and severally liable for:

Initial Filing Fee	= \$500.00
Total Fees	= \$500.00
<u>Less payments</u>	= \$ 500.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

Respondent Barron Chase be and hereby is solely liable for:

Member Fees	= \$7,600.00
Total Fees	= \$7,600.00
<u>Less payments</u>	= \$3,100.00
Balance Due NASD Dispute Resolution, Inc.	= \$4,500.00

Respondents Barron Chase and Kirk be and hereby are jointly and severally liable for:

Forum Fees	= \$8,400.00
Total Fees	= \$8,400.00
<u>Less payments</u>	= \$1,200.00
Balance Due NASD Dispute Resolution, Inc.	= \$7,200.00

All balances are payable to NASD Dispute Resolution, Inc. and are due immediately upon receipt of the Award by the parties.

**Concurring Arbitrators' Signatures**

\_\_\_\_\_/s/\_\_\_\_\_  
Henry P. Baer, Esq.  
Industry Arbitrator, Presiding Chair

\_\_\_\_\_  
January 25, 2001  
Signature Date

\_\_\_\_\_/s/\_\_\_\_\_  
Marsha Matson, PhD.  
Public Industry Arbitrator

\_\_\_\_\_  
January 25, 2001  
Signature Date

/s/  
Oscar Schneider, Esq.  
Industry Arbitrator

January 25, 2001  
Signature Date

January 25, 2001  
Date of Service (For NASD-DR office use only)

without charge, copies of audio manuscripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred during these proceedings.

Fee Summary

Claimants be and hereby are jointly and severally liable for:

Initial Filing Fee	= \$500.00
Total Fees	= \$500.00
<del>Less payments</del>	<del>= \$ 500.00</del>
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

Respondent Barton Chase be and hereby is jointly liable for:

Member Fees	= \$7,600.00
Total Fees	= \$7,600.00
<del>Less payments</del>	<del>= \$3,100.00</del>
Balance Due NASD Dispute Resolution, Inc.	= \$4,500.00

Respondents Barton Chase and Kirk be and hereby are jointly and severally liable for:

Forum Fees	= \$8,400.00
Total Fees	= \$8,400.00
<del>Less payments</del>	<del>= \$1,200.00</del>
Balance Due NASD Dispute Resolution, Inc.	= \$7,200.00

All balances are payable to NASD Dispute Resolution, Inc. and are due immediately upon receipt of this award by the parties.

Consenting Arbitrator's Signature

J.P.D.  
Henry P. Baer, Esq.  
Industry Arbitrator, Presiding Chair

1/25/01  
Signature Date

Morale Linton, Esq.  
Public Industry Arbitrator

                      
Signature Date

NASD Dispute Resolution, Inc.  
 Arbitration No. 99-0491  
 Award Page 3

without charge, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred during these proceedings.

### Fee Summary

Claimants be and hereby are jointly and severally liable for:

Initial Filing Fee	= \$500.00
Total Fees	= \$500.00
<u>Less payments</u>	<u>= \$ 500.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

Respondent Barron Chase be and hereby is solely liable for:

Member Fees	= \$7,600.00
Total Fees	= \$7,600.00
<u>Less payments</u>	<u>= \$3,100.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$4,500.00

Respondents Barron Chase and Kirk be and hereby are jointly and severally liable for:

Forum Fees	= \$8,400.00
Total Fees	= \$8,400.00
<u>Less payments</u>	<u>= \$1,200.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$7,200.00

All balances are payable to NASD Dispute Resolution, Inc. and are due immediately upon receipt of the Award by the parties.

### Concurring Arbitrators' Signatures

Henry P. Baer, Esq.  
 Industry Arbitrator, Presiding Chair

Signature Date

Marsha Matson Ph.D.

Marsha Matson, Ph.D.  
 Public Industry Arbitrator

Jan 25, 2001

Signature Date



NASD Dispute Resolution, Inc.

Arbitration No. 95-01491

Award Page 6

  
\_\_\_\_\_  
Oscar Schneider, Esq.  
Industry Arbitrator

  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Date of Service (For NASD-L.R. office use only)