

**Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

J. Kent Pepper, Claimant v. Joseph Charles & Assoc., Inc., a/k/a Joseph Charles & Associates, Inc.,  
Andrew David Finch, Christopher Robert Esposito, Joseph Charles Visconti, Roy Thomas Amico,  
Michael Ferraro, Frank Nicholas Salvatore, Douglas Fulton Kaiser, Todd Richard Stone, Guy Steven  
Amico, and Scott Howard Goldstein, Respondents

Case Number: 99-04706

Hearing Site: San Francisco, California

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**REPRESENTATION OF PARTIES**

For Claimant:

Richard Sacks  
Investors Recovery Service  
Novato, California

Irwin Stein, Esq.  
Law Offices of Timothy A. Canning  
Novato, California

For Respondent Andrew David Finch:

Andrew David Finch  
In Propria Persona  
Boxford, Massachusetts

For Respondent Christopher Robert Esposito:

Christopher Robert Esposito  
In Propria Persona  
Topsfield, Massachusetts

For Respondent Michael Ferraro:

Michael Ferraro  
In Propria Persona  
Wellington, Florida

**CASE INFORMATION**

Statement of Claim filed: October 14, 1999

Claimant's Uniform Submission Agreement signed: June 13, 1999

Joint Statement of Answer filed by Respondents Joseph Charles and Assoc., Inc., Joseph Charles Visconti, Roy Thomas Amico, Frank Nicholas Salvatore and Douglas Fulton Kaiser: January 10, 2000

Statement of Answer filed by Respondent Andrew David Finch: May 16, 2000

Statement of Answer filed by Respondent Christopher Robert Esposito: October 10, 2002

Statement of Answer filed by Respondent Michael Ferraro: March 12, 2001

Statement of Answer filed by Respondent Todd Richard Stone: None filed

Statement of Answer and Cross-Claim filed by Respondents Guy Steven Amico and Scott Howard Goldstein: September 24, 2001

Respondent Joseph Charles & Assoc., Inc.'s Uniform Submission Agreement signed: February 29, 2000

Respondent Andrew David Finch's Uniform Submission Agreement received: May 16, 2000

Respondent Christopher Robert Esposito's Uniform Submission Agreement signed: Not signed

Respondent Joseph Charles Visconti's Uniform Submission Agreement: Signed, but not dated

Respondent Roy Thomas Amico's Uniform Submission Agreement signed: March 3, 2000

Respondent Michael Ferraro's Uniform Submission Agreement signed: Not signed

Respondent Frank Nicholas Salvatore's Uniform Submission Agreement signed: March 3, 2000

Respondent Douglas Fulton Kaiser's Uniform Submission Agreement signed: March 3, 2000

Respondent Todd Richard Stone's Uniform Submission Agreement signed: Not signed

Respondent Guy Steven Amico's Uniform Submission Agreement signed: Not signed

Respondent Scott Howard Goldstein's Uniform Submission Agreement signed: Not signed

### **CASE SUMMARY**

Claimant alleged churning, excessive markups, unsuitability, failure to supervise, fraud, misrepresentation, breach of contract, breach of fiduciary duty, and violation of NASD rules. The transactions complained of occurred between September 1997 and August 1998 and involved the purchase and sale of various securities.

Respondents denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim. Respondents Guy Steven Amico and Scott Howard Goldstein filed cross-claims against Co-Respondents Joseph Charles Visconti, Frank Nicholas Salvatore, Todd Richard Stone, Michael Ferraro, Andrew David Finch and Christopher Robert Esposito for indemnification and/or contribution.

### **RELIEF REQUESTED**

Claimant requested compensatory damages of \$124,000.00, lost opportunity costs of \$300,000.00, and unspecified punitive damages.

Respondents each requested dismissal of the Claimant's Statement of Claim in its entirety. Respondent Andrew David Finch also requested reimbursement of costs, including attorney's fees. Additionally, Respondents Guy Amico and Scott Goldstein requested indemnity and/or contribution, and an Order of Expungement to any reference of the matter from their registration records maintained by the NASD Central Registration Depository ("CRD").

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

Respondents Christopher Robert Esposito, Michael Ferraro, Guy Steven Amico, and Scott Howard Goldstein did not file with the NASD Dispute Resolution properly executed submission agreements; however, all said Respondents are required to submit to arbitration and are bound by the determination of the Panel on all issues submitted.

Upon review of the file and the representations made on behalf of the Claimant, the undersigned Panel determined that Respondent Todd Richard Stone was not properly served with the Statement of Claim. Accordingly, the Panel dismissed Respondent Todd Richard Stone without prejudice, as noted in paragraph 3 of the section entitled "Award."

On August 6, 2001, Claimant Amended his Statement of Claim to include Guy Steven Amico and Scott Howard Goldstein as Respondents.

On January 10, 2002, NASD Dispute Resolution was notified of the Chapter 7 Bankruptcy filed by Respondent Joseph Charles & Assoc., Inc. a/k/a Joseph Charles & Associates, Inc. Accordingly, this matter is stayed as to Respondent Joseph Charles & Assoc., Inc. a/k/a Joseph Charles & Associates, Inc.

On May 29, 2002, Claimant dismissed Respondents Guy Steven Amico and Scott Howard Goldstein.

On May 30, 2002, Respondents Guy Steven Amico and Scott Howard Goldstein dismissed their Cross-claims against Co-Respondents Joseph Charles Visconti, Frank Nicholas Salvatore, Todd Richard Stone, Michael Ferraro, Andrew David Finch, and Christopher Robert Esposito.

On June 6, 2002, Claimant dismissed Respondent Roy Thomas Amico.

On June 13, 2002, Claimant dismissed Respondent Joseph Charles Visconti.

On October 7, 2002, Claimant filed a Motion for Summary Judgment. On October 10, 2002, Respondent Christopher Esposito filed a Motion to Dismiss the Statement of Claim. On October 15, 2002, Respondent Michael Ferraro filed a Motion to Dismiss the Statement of Claim. On October 17, 2003, the Panel denied Claimant's Motion for Summary Judgment, Respondent Christopher Esposito's Motion to Dismiss and Respondent Michael Ferraro's Motion to Dismiss.

On March 4, 2003, Claimant dismissed Respondents Frank Nicholas Salvatore and Douglas Fulton Kaiser.

On April 2, 2003, Respondent Michael Ferraro renewed his Motion to Dismiss the Statement of Claim. On April 17, 2003, a telephonic pre-hearing conference was held. After due deliberation in an executive session, the Panel denied the motion.

Upon review of the file and the representations made by/on behalf of the Claimant, the undersigned Panel determined that Respondents Andrew David Finch and Michael Ferraro were properly served with the Statement of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without said Respondents present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

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. The Panel finds that Claimant and Respondent Andrew David Finch agreed to settle their claims on March 7, 2001. Based upon this settlement agreement, the Panel rules as follows:
  - a. Respondent Andrew David Finch is liable to and shall pay Claimant \$15,000.00 in compensatory damages.
  - b. Respondent Andrew David Finch is liable to and shall pay Claimant interest in the amount of 5.0% per annum on \$15,000.00 from July 31, 2001, until the date compensatory damages are paid to Claimant.
2. Respondent Michael Ferraro is liable to and shall pay Claimant \$12,225.00 in compensatory damages.
3. Respondent Todd Richard Stone is dismissed without prejudice.
4. The parties shall bear their respective costs, including attorney's fees.
5. 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 received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 300.00
Cross-Claim filing fee for Respondents Guy Steven Amico and Scott Howard Goldstein	= \$ 300.00

#### **Adjournment Fees**

The following adjournment fees are assessed:

1. June, 2002 Hearing Dates, adjournment fee assessed as follows:

½ to Frank Nicholas Salvatore	= \$ 562.50
½ to Douglas Fulton Kaiser	= \$ 562.50
2. October, 2002 Hearing Dates, adjournment fee assessed as follows:

½ to Claimant	= \$ 562.50
½ jointly and severally to Christopher Robert Esposito and Michael Ferraro	= \$ 562.50

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

The Arbitrator/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 Chair/Panel. The following fees are assessed:

Two (2) Pre-hearing conference sessions with a single arbitrator @ \$ 450.00/session	= \$ 900.00
Pre-hearing conferences:	
October 19, 2000	1 session
March 9, 2001	1 session

Ten (10) Pre-hearing conference sessions with the Panel @ \$1,125.00/session	= \$ 11,250.00
Pre-hearing conferences:	
August 14, 2000	1 session
November 8, 2000	1 session
March 16, 2001	1 session
July 26, 2001	1 session
December 20, 2001	1 session
January 8, 2002	1 session
June 6, 2002	1 session

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October 3, 2002	1 session
November 19, 2002	1 session
March 4, 2003	1 session (fee waived by Panel)
April 17, 2003	1 session

Two (2) Hearing sessions @ \$ 1,125.00/session	= \$ 2,250.00
Hearings: June 9, 2003 2 sessions.	

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<b>Total Forum Fees</b>	<b>= \$ 14,400.00</b>
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1. The Panel assessed \$6,637.50 of the forum fees to Claimant.
2. The Panel assessed \$1,125.00 of the forum fees jointly and severally to Respondents Andrew David Finch, Christopher Robert Esposito, Joseph Charles Visconti, Roy Thomas Amico, Michael Ferraro, Frank Nicholas Salvatore, Douglas Fulton Kaiser, Guy Steven Amico, and Scott Howard Goldstein.
3. The Panel assessed \$1,912.50 of the forum fees jointly and severally to Respondents Andrew David Finch, Christopher Robert Esposito, Joseph Charles Visconti, Roy Thomas Amico, Michael Ferraro, Frank Nicholas Salvatore, and Douglas Fulton Kaiser.
4. The Panel assessed \$787.50 of the forum fees jointly and severally to Respondents Andrew David Finch, Christopher Robert Esposito, Joseph Charles Visconti, Roy Thomas Amico, Frank Nicholas Salvatore, and Douglas Fulton Kaiser.
5. The Panel assessed \$562.50 of the forum fees to Respondent Douglas Fulton Kaiser.
6. The Panel assessed \$562.50 of the forum fees to Respondent Frank Nicholas Salvatore.
7. The Panel assessed \$1,687.50 of the forum fees jointly and severally to Respondents Christopher Robert Esposito and Michael Ferraro.
8. The Panel assessed \$562.50 of the forum fees to Respondent Christopher Robert Esposito.
9. The Panel assessed \$562.50 of the forum fees to Respondent Michael Ferraro.

**Fee Summary**

1. Claimant J. Kent Pepper is charged with the following fees and costs:

Initial Filing Fee	= \$ 300.00
Adjournment Fees	= \$ 562.50
Forum Fees	= \$ 6,637.50
Total Fees	= \$ 7,500.00
Less payments	= \$( 1,425.00)
Balance Due NASD Dispute Resolution	= \$ 6,075.00

2. Respondents Guy Steven Amico and Scott Howard Goldstein are charged jointly and severally with the following fees and costs:

Cross-claim Filing Fee	= \$ 300.00
Less payments	= \$( 0.00)
Balance Due NASD Dispute Resolution	= \$ 300.00

3. Respondents Andrew David Finch, Christopher Robert Esposito, Joseph Charles Visconti, Roy Thomas Amico, Michael Ferraro, Frank Nicholas Salvatore, Douglas Fulton Kaiser, Guy Steven Amico, and Scott Howard Goldstein are charged jointly and severally with the following fees and costs:

Forum Fees	= \$ 1,125.00
Less payments	= \$( 0.00)
Balance Due NASD Dispute Resolution	= \$ 1,125.00

4. Respondents Andrew David Finch, Christopher Robert Esposito, Joseph Charles Visconti, Roy Thomas Amico, Michael Ferraro, Frank Nicholas Salvatore, and Douglas Fulton Kaiser are charged jointly and severally with the following fees and costs:

Forum Fees	= \$ 1,912.50
Less payments	= \$( 0.00)
Balance Due NASD Dispute Resolution	= \$ 1,912.50

5. Respondents Andrew David Finch, Christopher Robert Esposito, Joseph Charles Visconti, Roy Thomas Amico, Frank Nicholas Salvatore, and Douglas Fulton Kaiser are charged jointly and severally with the following fees and costs:

Forum Fees	= \$ 787.50
Less payments	= \$( 0.00)
Balance Due NASD Dispute Resolution	= \$ 787.50



6. Respondent Douglas Fulton Kaiser is charged with the following fees and costs:

Adjournment Fee	= \$ 562.50
<u>Forum Fees</u>	= \$ 562.50
Total Fees	= \$ 1,125.00
<u>Less payments</u>	= \$( 550.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 575.00</b>

7. Respondent Frank Nicholas Salvatore is charged with the following fees and costs:

Adjournment Fee	= \$ 562.50
<u>Forum Fees</u>	= \$ 562.50
Total Fees	= \$ 1,125.00
<u>Less payments</u>	= \$( 550.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 575.00</b>

8. Respondents Christopher Robert Esposito and Michael Ferraro are charged jointly and severally with the following fees and costs:

Adjournment Fee	= \$ 562.50
<u>Forum Fees</u>	= \$ 1,687.50
Total Fees	= \$ 2,250.00
<u>Less payments</u>	= \$( 0.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 2,250.00</b>

9. Respondent Christopher Robert Esposito is charged with the following fees and costs:

Forum Fees	= \$ 562.50
<u>Less payments</u>	= \$( 0.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 562.50</b>

10. Respondent Michael Ferraro is charged with the following fees and costs:

Forum Fees	= \$ 562.50
<u>Less payments</u>	= \$( 0.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 562.50</b>

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


NASD Dispute Resolution  
Arbitration No. 99-04706  
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**ARBITRATION PANEL**

Mark R. Topper, Esq.  
Susan B. Wilson  
Milton C. Bennett

Public Arbitrator, Presiding Chair  
Public Arbitrator  
Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

  
Mark R. Topper, Esq.  
Chair, Public Arbitrator

7/16/03  
Signature Date

Susan B. Wilson  
Public Arbitrator

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

Milton C. Bennett  
Non-Public Arbitrator

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

7/17/03  
Date of Service

**ARBITRATION PANEL**

**Mark R. Topper, Esq.**

**Susan B. Wilson**

**Milton C. Bennett**

**Public Arbitrator, Presiding Chair**

**Public Arbitrator**

**Non-Public Arbitrator**

**Concurring Arbitrators' Signatures**

**Mark R. Topper, Esq.**  
**Chair, Public Arbitrator**

**Signature Date**



**Susan B. Wilson**  
**Public Arbitrator**

**7/16/03**

**Signature Date**

**Milton C. Bennett**  
**Non-Public Arbitrator**

**Signature Date**

**7/17/03**

**Date of Service**