# Award
## NASD

In the Matter of the Arbitration Between:

Marcos A. Haber and Cecilia Perez, JTWROS, Claimants v. Young, Stovall & Company, Respondent

Case Number: 01-04042 Hearing Site: Boca Raton, Florida

## REPRESENTATION OF PARTIES

For Marcos A. Haber and Cecilia Perez, JTWROS, hereinafter referred to as "Claimants": Darren C. Blum, Esq., Law Offices of Darren C. Blum, Plantation, FL.

For Respondent Young, Stovall & Company ("YSC"): Lonnie K. Martens, Esq., Kelley & Warren, P.A., West Palm Beach, FL.

## CASE INFORMATION

Statement of Claim filed on or about: August 14, 2001.
Claimants' Uniform Submission Agreement signed: July 23, 2001.
Statement of Answer filed by Respondent on or about: October 19, 2001.
Respondent's Uniform Submission Agreement signed.

## CASE SUMMARY

Claimants alleged the following causes of action: 1) violations of the Florida Statutes Section 517; 2) breach of contract; 3) negligent supervision, hiring and retention of employees; 4) breach of fiduciary duty; 5) unsuitability; 6) fraud; and 7) negligence. The causes of action relate to the purchase of securities of including, but not limited to: IBIZ; Motorola; Infospace; Ariba; Palm, Inc.; Xybernaut Corp.; and Microsoft.

Unless specifically admitted in its Statement of Answer, Respondent denied the allegations of wrongdoing set forth in the Claimants' Statement of Claim and asserted various affirmative defenses.

## RELIEF REQUESTED

Claimants requested in their Statement of Claim: 1) $150,000.00 of compensatory damages, plus interest at the legal rate from the date of purchase or reasonable market return; 2) rescission; 3) attorneys' fees (to be determined by a court of competent jurisdiction); 4) an unspecified amount of punitive damages; 5) costs; 6) and such other relief that the Panel deemed just and proper.

Respondent requested: 1) that all claims against Respondent be dismissed; 2) costs; 3) attorneys' fees pursuant to Florida Statutes Section 517; 4) reimbursement of membership surcharges; and 5) the expungement of all references to the above captioned arbitration from Respondent and Augusto L. Conroy's registration records maintained by the NASD Central Registration Depository ("CRD").

## AWARD

After considering the pleadings, testimony, and evidence presented at the hearing, the undersigned arbitrators (the "Panel") have decided in full and final resolution of the issues submitted for determination as follows:

1) The Panel finds Respondent YSC liable to Claimants for lack of supervision for not properly overseeing Claimants' account, including its recommendation that Claimants use margin. The Panel does not find liability on any other claims, including the claim of violation of Florida Statutes Section 517.
2) Respondent YSC shall pay to Claimants compensatory damages in the amount of $72,000.00, prejudgment interest specifically excluded.
3) Claimants' request for punitive damages is denied.
4) Respondent's request for an expungement is denied.
5) Any and all claims for relief not specifically addressed herein are denied.

## FEES

Pursuant to the NASD Code of Arbitration Procedure (the "Code"), the following fees are assessed:

**Filing Fees**

NASD received or will collect the non-refundable filing fees for each claim as follows:

| | | |
|---|---|---|
| Initial claim filing fee | = $ | 300.00 |

**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 that gave rise to the dispute, claim, or controversy. Young, Stovall & Company is a party to this dispute and was an NASD member at the time the following fees were assessed:

| | | |
|---|---|---|
| Member Surcharge | = $ | 1,500.00 |
| Pre-Hearing Process Fee | = $ | 600.00 |
| Hearing Process Fee | = $ | 2,500.00 |
| Total Member Fees | = $ | 4,600.00 |

**Adjournment Fees**
No adjournment fees are assessed.

**Injunctive Relief Fees**
Injunctive relief fees were not assessed in this matter.

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

| | | | | |
|---|---|---|---|---|
| One (1) Pre-hearing conference with the Chair @ $450.00 | | | = $ | 450.00 |
| Pre-hearing conference: | September 23, 2002 | 1 session | | |
| One (1) Pre-hearing conference with the Panel @ $1,125.00 | | | = $ | 1,125.00 |
| Pre-hearing conference: | March 5, 2002 | 1 session | | |
| Four (4) hearing sessions with the Panel @ $1,125.00 | | | = $ | 4,500.00 |
| Hearing: | October 15, 2002 | 1 session | | |
| | October 16, 2002 | 2 sessions | | |
| | October 17, 2002 | 1 session | | |
| **Total Forum Fees** | | | **= $** | **6,075.00** |

The Panel has assessed forum fees of $ 3,037.50 to Claimants, jointly and severally.
The Panel has assessed forum fees of $ 3,037.50 to Respondent YSC.

**Administrative Costs**
Administrative costs are expenses incurred because a party requested additional services beyond the normal administrative services. These additional services include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, security, and other requests.

There were no administrative costs incurred during these proceedings.

**Fee Summary**

Claimants are liable for the following fees and costs, jointly and severally:

| | | |
|---|---|---|
| Initial Filing Fee | = $ | 300.00 |
| Forum Fees | = $ | 3,037.50 |
| Total Fees | = $ | 3,337.50 |

| | | |
|---|---|---|
| Less payments | = $ | 1,425.00 |
| Balance Due NASD | = $ | 1,912.50 |

Respondent YSC is solely liable for the following fees and costs:

| | | |
|---|---|---|
| Forum Fees | = $ | 3,037.50 |
| Member Fees | = $ | 4,600.00 |
| Total Fees | = $ | 7,637.50 |
| Less payments | = $ | 4,600.00 |
| Balance Due | = $ | 3,037.50 |

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

## ARBITRATION PANEL

| | | |
|---|---|---|
| *Charles Hoffman, Esq.* | - | *Public Arbitrator, Presiding Chair* |
| *David Newman* | - | *Non-Public Arbitrator* |
| *Carl Shechter, Esq.* | - | *Public Arbitrator* |

**Concurring Arbitrators' Signatures**

/s/
Charles Hoffman, Esq.
Chair, Public Arbitrator

Signature Date

/s/
David Newman
Non-Public Arbitrator

Signature Date

/s/
Carl Shechter, Esq.
Public Arbitrator

Signature Date

November 13, 2002
Date of Service (For NASD office use only)

To: Heather Siegel (561) 447-4927
From: CHARLES HOFFMAN
I will also mail this

NASD
Arbitration No. 01-4042
Award Page 4 of 4

| | |
|---|---|
| | = $ 1,425.00 |
| Less payments | = $ 1,912.50 |
| Balance Due NASD | |

Respondent YSC is solely liable for the following fees and costs:

| | |
|---|---|
| | = $ 3,037.50 |
| Forum Fees | = $ 4,600.00 |
| Member Fees | = $ 7,637.50 |
| Total Fees | = $ 4,600.00 |
| Less payments | = $ 3,037.50 |
| Balance Due | |

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Chair, Public Arbitrator

11/11/02
Signature Date

David Newman
Non-Public Arbitrator

Signature Date

Carl Shechter, Esq
Public Arbitrator

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Chair, Public Arbitrator

Signature Date

David Newman
Non-Public Arbitrator

12 November 02
Signature Date

Carl Shechter, Esq.
Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

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| Balance Due NASD | = $ 1,912.50 |

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| *Carl Shechter, Esq.* | - | *Public Arbitrator* |

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Signature Date

David Newman
Non Public Arbitrator

Signature Date

Carl Shechter, Esq.
Public Arbitrator

11/13/02
Signature Date

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