

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Richard A. and Kellie Y. Becker, Richard A. Becker Roth IRA and Kellie Y. Becker Roth IRA,
Claimants v. Hampton-Porter Investment Bankers, John W. Laurienti, Gregory Du Bois Walker,
James D. Green, Jr., Niels C. Djernaes, and Michael W. Losse, Respondents

Case Number: 01-02533

Hearing Site: Los Angeles, California

REPRESENTATION OF PARTIES

For Claimant:

Jeffrey A. Feldman, Esq.
Law Offices of Jeffrey A.
Feldman
San Francisco, California

For Respondent Niels C. Djernaes:

Erich E. Fock, Esq.
Myer & Fock
Santa Barbara, California

CASE INFORMATION

Statement of Claim filed: May 7, 2001

Claimants' Joint Uniform Submission Agreement signed: June 7, 2001

Statement of Answer filed by Respondent Niels C. Djernaes: September 13, 2001

Amended Statement of Answer filed by Respondent Niels C. Djernaes: June 25, 2002

Respondent John W. Laurienti's Uniform Submission Agreement signed: August 11, 2001

Respondent Michael W. Losse's Uniform Submission Agreement signed: August 11, 2001

CASE SUMMARY

Claimants alleged breach of fiduciary duty, unauthorized trading, unsuitability, fraud, negligence, breach of third-party beneficiary contract and failure to supervise. Claimants' allegations concerned transactions in the common stock of En Pointe Technologies, Inc.

Respondent Niels C. Djernaes denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim.

RELIEF REQUESTED

Claimant requested unspecified compensatory damages, unspecified punitive damages and costs.

Respondent Niels C. Djernaes requested dismissal of Claimants' Statement of Claim.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents Hampton-Porter Investment Bankers, John W. Laurienti, Gregory Du Bois Walker, James D. Green, Jr., and Niels C. Djernaes did not file with the NASD Dispute Resolution, properly executed submission agreements; however, all said Respondents are required to submit to arbitration and all said Respondents are bound by the determination of the Panel on all issues submitted.

On August 28, 2001, Respondents John W. Laurienti and Michael Losse moved the Panel to decline jurisdiction and dismiss said Respondents. On October 2, 2001, Respondents Gregory D. Walker and James Green moved the Panel to decline jurisdiction and dismiss said Respondents. On January 10, 2002, after due deliberation, the Panel denied said Respondents' motions.

On April 19, 2002, Claimants filed a motion to compel discovery from Respondents Gregory Walker, James Green and John Laurienti. On May 22, 2002, after due deliberation, the Chair granted Claimants' Motion to Compel in full, ordering said Respondents to respond to Claimants' discovery requests by May 31, 2002. On June 11, 2002, Claimants' filed a Request for Sanctions in the amount of \$1,000.00 per day against Respondents Gregory Walker, James Green and John Laurienti on the grounds that said Respondents failed to comply with the Chair's order of May 22, 2002. On July 24, 2002, after due deliberation, the Panel granted Claimants' motion for sanctions in the amount of \$100.00 per day in the event that Respondents Walker, Green and Laurienti failed to comply with the Chair's May 22, 2002 order within fifteen days of the Panel's July 24, 2002 order. During the hearing, the Panel found that said Respondents failed to comply with the Panel's order. As a result, the Panel finds the total amount due from each said Respondent from the date of the Panel's July 24, 2002 order to date of this Award is \$13,700.00.

On May 14, 2002, Respondent Niels C. Djernaes moved the Panel to exclude evidence and bifurcate the case with respect to him. On July 24, 2002, after due deliberation, the Panel denied Respondent Djernaes' motion.

On May 20, 2002, Claimants dismissed with prejudice Respondent Michael Loose.

On August 11, 2003, Claimants and Claimants' counsel signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators. Pursuant to the Code of Arbitration Procedure IM-10100, the waivers of the Claimants shall constitute and operate as a waiver for all member firms and associated persons (including terminated or otherwise inactive member firms or associated persons) against whom the Claim has been filed.

On September 29, 2003, upon review of the file, the undersigned Panel determined that Respondents Hampton-Porter Investment Bankers, John W. Laurienti, Gregory Du Bois Walker and James D. Green, Jr., were properly served with the Statement of Claim and that arbitration of the matter would proceed without said Respondents present, in accordance with the NASD Code of Arbitration Procedure.

On September 29, 2003, Respondent Niels C. Djernaes moved the Panel to decline jurisdiction, to bifurcate the case with respect to him, and to continue the hearing to another date. After due deliberation the Panel denied Respondent Djernaes' motions.

On September 30, 2003, Respondent Niels C. Djernaes moved the Panel to dismiss Claimants' Statement of Claim. After due deliberation the Panel denied the motion.

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, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondent Niels C. Djernaes is liable to and shall pay Claimants the sum of \$32,000.00 in compensatory damages.
- 2) The Panel finds that Respondents Hampton-Porter Investment Bankers, John W. Laurienti, Gregory Du Bois Walker and James D. Green, Jr. intended to deceive and in fact did deceive Claimants by engaging in deceptive sales practices with respect to common stock transactions in En Pointe Technologies, Inc.
- 3) Respondents Hampton-Porter Investment Bankers, John W. Laurienti, Gregory Du Bois Walker and James D. Green, Jr. are jointly and severally liable to and shall pay Claimants the sum of \$80,000.00 in compensatory damages.
- 4) Respondents Hampton-Porter Investment Bankers, John W. Laurienti, Gregory Du Bois Walker and James D. Green, Jr. are jointly and severally liable to and shall pay Claimants the sum of \$270,000.00 in punitive damages.
- 5) Respondents Hampton-Porter Investment Bankers, John W. Laurienti, Gregory Du Bois Walker and James D. Green, Jr. are jointly and severally liable to and shall pay Claimants the sum of \$250.00 as reimbursement for filing costs.
- 6) The Panel finds that Respondent John W. Laurienti failed to comply with the Panel's order of July 24, 2002, and is hereby assessed and shall pay to Claimants the sum of \$13,700.00.
- 7) The Panel finds that Respondent Gregory Du Bois Walker failed to comply with the Panel's order of July 24, 2002, and is hereby assessed and shall pay to Claimants the sum of \$13,700.00.
- 8) The Panel finds that Respondent James D. Green, Jr. failed to comply with the Panel's order of July 24, 2002, and is hereby assessed and shall pay to Claimants the sum of \$13,700.00.
- 9) Except as set forth in paragraph 5, 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 received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 250.00
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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. Accordingly, the member firm Hampton-Porter Investment Bankers is a party and the following fees are assessed:

Member Surcharge	= \$1,200.00
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Adjournment Fees

The following adjournment fees are assessed:

May 29-31, 2002 adjournment requested by John Laurienti	= \$1,000.00
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March 19-21, 2003 adjournment requested by Respondent Niels Djernaes	= \$1,000.00
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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 or the parties and the Panel. The following fees are assessed:

One (1) Pre-hearing conference session with the Panel @ \$1,000/session	= \$1,000.00
Pre-hearing conference: January 10, 2002	1 session

Four (4) Hearing sessions @ \$1,000.00/session	= \$4,000.00
Hearings: September 29, 2003	2 sessions
September 30, 2003	2 sessions

Total Forum Fees	= \$5,000.00
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The Panel assessed the entire balance of the forum fees in the amount of \$5,000.00 jointly and severally to Respondents John W. Laurienti, Gregory Du Bois Walker, James D. Green, Jr., and Niels C. Djernaes.

Fee Summary

1. Claimants are charged jointly and severally with the following fees and costs:

Initial Filing Fee	= \$ 250.00
<u>Less payments</u>	<u>= \$ (975.00)</u>
Refund Due from NASD Dispute Resolution	= \$ (725.00)

2. Respondent Hampton-Porter Investment Bankers is charged with the following fees and costs:

Member Fees	= \$ 1,200.00
<u>Less payments</u>	<u>= \$ (0.00)</u>
Balance Due NASD Dispute Resolution	= \$ 1,200.00

3. Respondent John Laurienti is charged with the following fees and costs:

Adjournment Fee	= \$ 1,000.00
<u>Less payments</u>	<u>= \$ (0.00)</u>
Balance Due NASD Dispute Resolution	= \$ 1,000.00

4. Respondent Niels Djernaes is charged with the following fees and costs:

Adjournment Fee	= \$ 1,000.00
<u>Less payments</u>	<u>= \$ (0.00)</u>
Balance Due NASD Dispute Resolution	= \$ 1,000.00

5. Respondents John W. Laurienti, Gregory Du Bois Walker, James D. Green, Jr., and Niels C. Djernaes are charged jointly and severally with the following fees and costs:

Forum Fees	= \$ 5,000.00
<u>Less payments</u>	<u>= \$ (0.00)</u>
Balance Due NASD Dispute Resolution	= \$ 5,000.00

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.

