

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

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In the Matter of the Arbitration Between:

Name of the Claimants

Case Number 03-08459

Warren J. Cox, Individually and as Trustee U/A  
dated March 22, 1985 for the Benefit of Alexandra L. Cox and as Trustee  
U/A dated March 22, 1985 for the Benefit of Samuel O. Cox

Claire A. Cox , Individually and as Trustee U/A  
dated March 22, 1985 for the Benefit of Alexandra L. Cox and as Trustee  
U/A dated March 22, 1985 for the Benefit of Samuel O. Cox

Samuel O. Cox  
Alexandra L. Cox

Name of the Respondents

Hearing Site: Washington, D.C.

J. Bush & Co., Inc.  
Jonathan J. Bush

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Nature of the Dispute: Customers vs. Member and Associated Person.

REPRESENTATION OF PARTIES

Claimants, Warren J. Cox Individually, and as Trustee U/A dated March 22, 1985 for the Benefit of Alexandra L. Cox, and as Trustee U/A dated March 22, 1985 for the Benefit of Samuel O. Cox ; Claire A. Cox individually and as Trustee U/A dated March 22, 1985 for the Benefit of Alexandra L. Cox, and as Trustee U/A dated March 22, 1985 , for the Benefit of Samuel O. Cox; and Samuel O. Cox, hereinafter collectively referred to as "Claimants", were represented by Edward B. Lowry, Esq., Michie, Hamlett, Lowry, Rasmussen & Tweel, P.C., Charlottesville, Virginia.

Respondents, J. Bush & Co., Inc. and Jonathan J. Bush, hereinafter collectively referred to as "Respondents", were represented by Edwin G. Schallert, Esq., Debevoise & Plimpton, LLP, New York, New York.

CASE INFORMATION

Statement of Claim filed on November 25, 2003.

Claimant Warren J. Cox signed the Uniform Submission Agreement individually and as trustee on November 20, 2003.

Claimant Claire A. Cox signed the Uniform Submission Agreement individually and as trustee on November 20, 2003.

Claimant Samuel O. Cox signed the Uniform Submission Agreement on November 18, 2004.

Joint Statement of Answer filed by Respondents on January 21, 2004.

Claire A. Cox signed the Uniform Submission Agreement in her capacity as Power of Attorney for Alexandra L. Cox on November 20, 2003.

Respondent Jonathan J. Bush signed the Uniform Submission Agreement individually and on behalf of the company on January 27, 2004.

#### CASE SUMMARY

Claimants asserted the following causes of action, among others: unsuitability, violation of the Securities Act of the District of Columbia, misrepresentation, material omission, negligence, breach of fiduciary duty, breach of contract, and failure to supervise. The causes of action relate to various unspecified securities.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following affirmative defenses, among others: failure to state a claim upon which relief may be granted; statute of limitations; Claimants' claims are barred by the doctrines of laches, estoppel and waiver; unclean hands; contributory negligence; ratification; assumption of risk; independent intervening factors; and failure to mitigate damages.

#### RELIEF REQUESTED

Claimants in their Statement of Claim requested:

Compensatory Damages	\$2,000,000.00
Interest	amount unspecified
Attorneys' Fees	amount unspecified
Other Costs	amount unspecified

Respondents in their Statement of Answer requested that they be awarded costs and attorneys' fees.

#### OTHER ISSUES CONSIDERED AND DECIDED

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

1. Respondents J. Bush & Co., Inc. and Jonathan J. Bush are jointly and severally liable to and shall pay to Claimants compensatory damages in the amount of \$630,000.00.
2. All claims for attorneys' fees are denied in their entirety;

3. The parties shall bear their respective costs, except as Fees are specifically addressed below; and
4. Any and all relief not specifically addressed herein is denied in its entirety.

#### FEES

Pursuant to the Code, the following fees are assessed:

##### Filing Fees

NASD Dispute Resolution will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$ 500.00

##### Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated person(s) at the time of the events giving rise to the dispute. Accordingly, J. Bush & Co, Inc. is a party.

Member surcharge	= \$ 2,800.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 5,000.00
<b>Total Member Fees</b>	<b>= \$ 8,550.00</b>

##### Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with a single arbitrator @ \$450.00	= \$ 450.00
Pre-hearing conference: September 7, 2004 1 session	

One (1) Pre-hearing session with Panel @ \$1,200.00	= \$ 1,200.00
Pre-hearing conference: May 4, 2004 1 session	

Seven (7) Hearing sessions @ \$1,200.00	= \$ 8,400.00
Hearing Dates: November 8, 2004 2 sessions	
November 9, 2004 2 sessions	
November 10, 2004 3 sessions	

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<b>Total Forum Fees</b>	<b>= \$10,050.00</b>
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1. The Panel has assessed \$5,025.00 of the forum fees jointly and severally to Claimants.
2. The Panel has assessed \$5,025.00 of the forum fees jointly and severally to Respondents.

#### EEE SUMMARY

1. Claimants are jointly and severally assessed and shall pay the following fees:

Initial Filing Fee	= \$ 500.00
Forum Fees	= \$5,025.00
Total Fees	= \$5,525.00
Less payments	= \$1,700.00
Balance Due NASD Dispute Resolution	= \$3,825.00
  
2. Respondent J. Bush & Co., Inc is assessed and shall pay the following fees:

Member Fees	= \$8,550.00
Total Fees	= \$8,550.00
Less payments	= \$8,550.00
Balance Due NASD Dispute Resolution	= \$ 00.00
  
4. Respondents are jointly and severally assessed and shall pay the following fees:

Forum Fees	= \$5,025.00
Total Fees	= \$5,025.00
Less payments	= \$ 00.00
Balance Due NASD Dispute Resolution	= \$5,025.00

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

ARBITRATION PANEL

Edward M. Statland, Esq.,	-	Public Arbitrator, Presiding Chairperson
Daniel A. Ball, Esq.	-	Public Arbitrator, Panelist
Joan M. Confoy	-	Non-Public Arbitrator, Panelist

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Concurring Arbitrators' Signatures

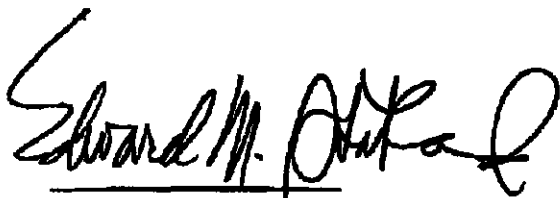
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Daniel A. Ball, Esq.  
Public Arbitrator

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Signature Date

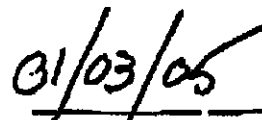
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Joan M. Conboy  
Non-Public Arbitrator, Panelist

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Signature Date

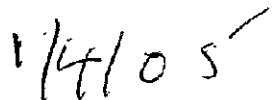
Dissenting Arbitrator's Signature



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Edward M. Statland, Esq.  
Public Arbitrator, Panelist



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Signature Date



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Date of Service (For NASD Dispute Resolution office use only)

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Concurring Arbitrators' Signatures

  
Daniel A. Ball, Esq.  
Public Arbitrator

12-28-04  
Signature Date

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Joan M. Confoy  
Non-Public Arbitrator, Panelist

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

Dissenting Arbitrator's Signature

\_\_\_\_\_  
Edward M. Statland, Esq.  
Non-Public Arbitrator, Panelist

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

1/4/05  
Date of Service (For NASD Dispute Resolution office use only)

