

**Award
NASD**

In the Matter of the Arbitration Between:

Name of the Claimant
Marilynn Massimi

Case Number: 00-04701

Names of the Respondents
Joseph Gunnar & Co., LLC and Theodore Hiotis

Hearing Site: Boca Raton, Florida

REPRESENTATION OF PARTIES

For Marilynn Massimi, hereinafter referred to as "Claimant": Kevin P. Conway, Esq., Conway & Conway, New York, New York.

For Joseph Gunnar & Co., LLC and Theodore Hiotis, hereinafter collectively referred to as "Respondents": John Lawlor, Esq., Mineola, New York.

CASE INFORMATION

Statement of Claim filed on or about: October 23, 2000.

Claimant signed the Uniform Submission Agreement: October 4, 2000.

Statement of Answer filed by Respondents on or about: January 3, 2001.

Respondent Joseph Gunnar & Co., LLC ("Gunnar") signed the Uniform Submission Agreement: March 8, 2001.

Respondent Theodore Hiotis ("Hiotis") signed the Uniform Submission Agreement: February 14, 2001.

CASE SUMMARY

Claimant asserted the following causes of action: churning; fraud; conversion; breach of contract; unauthorized trading; breach of fiduciary duty; negligence; failure to supervise; violation of securities rules and regulations; intentional infliction of emotional distress; and, violation of Section 501.204 of the Florida Deceptive and Unfair Trade Practices Act. The causes of action relate to the purchase and sale of unspecified securities products in Claimant's account.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted various defenses.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$200,00.00 plus rescission of the unauthorized transactions, damages for the intentional infliction of emotional distress, pre and post judgment interest, costs, expert witness fees, attorney's fees, punitive damages, relief pursuant to Section 501.204 of the Florida Deceptive and Unfair Trade Practices Act and any

other relief deemed just and proper.

Respondents requested that the Statement of Claim be dismissed and costs.

OTHER ISSUES CONSIDERED AND DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart copies.

During closing argument, Respondents' counsel made an ore tenus motion to amend the answer to include a request for attorneys' fees. The panel denied the motion.

AWARD

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

Claimant's claims are denied in their entirety.

Any and all relief not specifically addressed herein, including Claimant's request for punitive damages and for damages pursuant to Section 501.204 of the Florida Deceptive and Unfair Trade Practices Act, are denied.

FEES

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

Filing Fees

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

Initial claim filing fee	= \$300.00
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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 person at the time of the event giving rise to the dispute. In this matter, the member firm is a party.

Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$600.00
Hearing process fee	= \$2,500.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

August 20-22, 2001 and August 27-29, 2001, adjournment by Respondents	= \$1,125.00
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Injunctive Relief Fees

No injunctive relief fees were incurred in this matter.

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A 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 a single arbitrator @ \$450.00	= \$450.00
Pre-hearing conference: June 20, 2001 1 session	
One (1) Pre-hearing session with Panel @ \$1,125.00	= \$1,125.00
Pre-hearing conference: May 4, 2001 1 session	
Ten (10) Hearing sessions @ \$1,125.00	= \$11,250.00
Hearing Dates: February 12, 2002 2 sessions	
February 13, 2002 2 sessions	
February 14, 2002 2 sessions	
July 16, 2002 2 sessions	
July 17, 2002 2 sessions	

Total Forum Fees	= \$12,825.00
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The Panel has assessed \$6,412.50 of the forum fees to Claimant.

The Panel has assessed \$6,412.50 of the forum fees to Respondent Gunnar.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred in this matter.

FEE SUMMARY

Claimant is solely liable for:

Initial Filing Fee	= \$300.00
Forum Fees	= \$6,412.50
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Total Fees	= \$6,712.50
Less payments	= \$1,425.00
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Balance Due NASD	= \$5,287.50

Respondent Gunnar is solely liable for:

Member Fees	= \$4,600.00
Forum Fees	= \$6,412.50

Total Fees	= \$11,012.50
Less payments	= \$4,600.00

Balance Due NASD	= \$6,412.50
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Respondents are jointly and severally liable for:

Adjournment Fee	= \$1,125.00
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Total Fees	= \$1,125.00
Less payments	= \$1,125.00

Balance Due NASD	= \$0.00
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All balances are payable to NASD and are due immediately upon the parties' receipt of the Award pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

<i>Howard N. Kahn, Esq.</i>	-	<i>Public Arbitrator, Presiding Chair</i>
<i>Arnold Sarrow</i>	-	<i>Public Arbitrator</i>
<i>Heather D. Fitzenhagen, Esq.</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

/s/ 07/30/02

Howard N. Kahn, Esq. Public Arbitrator, Presiding Chair	Signature Date
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/s/ 08/16/02

Arnold Sarrow Public Arbitrator	Signature Date
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/s/ 08/13/02

Heather D. Fitzenhagen, Esq. Non-Public Arbitrator	Signature Date
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08/20/02

Date of Service (For NASD office use only)

JUL 30 2002 8:43AM solution

Arbitration No. 00-04701

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Respondent Gunnar is solely liable for:

Member Fees = \$4,600.00

Forum Fees = \$6,412.50

Total Fees = \$11,012.50

Less payments = \$4,600.00

Balance Due NASD = \$6,412.50

Respondents are jointly and severally liable for:

Adjournment Fee = \$1,125.00

Total Fees = \$1,125.00

Less payments = \$1,125.00

Balance Due NASD = \$0.00

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

ARBITRATION PANEL

Howard N. Kahn, Esq. -

Public Arbitrator, Presiding Chair

Arnold Sarrow -

Public Arbitrator

Heather D. Fitzenhagen, Esq. -

Non-Public Arbitrator

Concurring Arbitrators' Signatures

Howard N. Kahn, Esq.
Public Arbitrator, Presiding Chair

7/30/02
Signature Date

Arnold Sarrow
Public Arbitrator

Signature Date

Heather D. Fitzenhagen, Esq.
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

Respondent Gunnar is solely liable for:

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Total Fees	= \$11,012.50
Less payments	= \$4,600.00

Balance Due NASD	= \$6,412.50
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Respondents are jointly and severally liable for:

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Total Fees	= \$1,125.00
Less payments	= \$1,125.00

Balance Due NASD	= \$0.00
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ARBITRATION PANEL

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Arnold Sarrow	-	Public Arbitrator
Heather D. Fitzenhagen, Esq.	-	Non-Public Arbitrator


Concurring Arbitrators' Signatures

Howard N. Kahn, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Arnold Sarrow
Public Arbitrator

Signature Date



Heather D. Fitzenhagen, Esq.
Non-Public Arbitrator

8/13/02

Signature Date

Date of Service (For NASD office use only)

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Balance Due NASD	= \$0.00

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ARBITRATION PANEL

Howard N. Kahn, Esq.	-	Public Arbitrator, Presiding Chair
Arnold Sarrow	-	Public Arbitrator
Heather D. Fitzenhagen, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Howard N. Kahn, Esq.
Public Arbitrator, Presiding Chair



Arnold Sarrow
Public Arbitrator

Signature Date

Aug. 16 2002
Signature Date

Heather D. Fitzenhagen, Esq.
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)