

**Award**  
**NASD Dispute Resolution, Inc.**

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In the Matter of the Arbitration Between

Name of Claimant

Barbara A. Webb

Case No. 00-05009

Names of Respondents

Mark Joseph Caravaglio  
Michael Jude Caravaglio  
Joseph Gunnar & Co., LLC

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Hearing Site: Atlanta, Georgia

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**REPRESENTATION OF PARTIES**

For Barbara A. Webb ("Webb"), hereinafter referred to as "Claimant": J. Pat Sadler, Esq., Sadler & Hovdesven, P.C., Atlanta, Georgia.

For Mark Joseph Caravaglio ("Mark Caravaglio"), Michael Jude Caravaglio ("Michael Caravaglio") and Joseph Gunnar & Co., LLC ("Gunnar"), hereinafter collectively referred to as "Respondents": John E. Lawlor, Attorney at Law, Mineola, New York.

**CASE INFORMATION**

Statement of Claim filed on or about: November 8, 2000.

Claimant signed the Uniform Submission Agreement: November 1, 2000.

Statement of Answer filed by Respondents on or about: January 17, 2001.

Respondents signed the Uniform Submission Agreements: January 17, 2001.

**CASE SUMMARY**

Claimant asserted the following: Claimant, an unemployed 60 year old woman, invested most of her liquid net worth with Respondents. Respondents proceeded to convert investments in Certificates of Deposits, Putnam Mutual Funds and assorted stocks, including insurance and other blue chips, into a small Nasdaq listed company called Isolyser and a few other smaller positions. Ultimately, Respondents had invested over \$800,000.00 or approximately 80% of Claimant's net worth into Isolyser. Over the course of approximately two years, stock transactions in Claimant's account generated almost \$70,000.00 in commissions. The grounds for recovery are based upon Respondents' breach of their fiduciary duty, violations of the

Georgia Securities Act, the know your customer rule and suitable recommendations requirement. Claimant also claimed she was misled by Respondents as to the risks based on their assurances that her principle would be protected.

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 of \$81,750.00, the return of needlessly incurred taxes in the sum of \$74,016.00, pre-judgment interest at the rate of 6% per annum, post-judgment interest at the rate of 12% per annum, punitive damages, attorneys' fees in an amount equal to one-third of the amount awarded, costs of this action, and such other and further relief as the Panel deemed just and appropriate.

Respondents requested that the Panel dismiss the Statement of Claim in its entirety and award such costs to Respondents as are just and proper, including attorneys' fees, and the costs of this arbitration.

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

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

### **AWARD**

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), the 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 requests not specifically addressed herein, including Claimant's request for punitive damages, are denied.

### **FEES**

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

#### **Filing Fees**

NASD Dispute Resolution, Inc. 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(s) that employed the associated person(s) at the time of the event(s) 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 requested during these proceedings:

December 5, 6 and 7, 2001, Hearing Dates, adjournment by Respondents = \$1,125.00.

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### Forum Fees and Assessments

The panel has the authority to assess forum fees for each hearing session conducted. A hearing 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 Pre-hearing session with the Panel x \$1,125.00	= \$1,125.00
Pre-hearing conferences: August 9, 2001	1 session
Four Hearing sessions x \$1,125.00	= \$4,500.00
Hearing Dates: March 27, 2002	2 sessions
March 28, 2002	2 sessions

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Total Forum Fees	= \$5,625.00
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The panel has assessed \$2,812.50 of the forum fees to Claimant.

The panel has assessed \$2,812.50 of the forum fees to Respondents, jointly and severally.

### Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services including, but not limited to, additional copies of arbitrator awards beyond those provided without charge, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

There were no administrative costs incurred during these proceedings.

### Fee Summary

Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$300.00
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Forum Fees	= \$2,812.50
Total Fees	= \$3,112.50
Less payments	= \$1,425.00
Balance Due NASD Dispute Resolution, Inc.	= \$1,687.50

Respondent Gunnar be and hereby is solely liable for:

Member Fees	= \$4,600.00
Total Fees	= \$4,600.00
Less payments	= \$4,600.00

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Balance Due NASD Dispute Resolution, Inc.	= \$0.00
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Respondents be and hereby are jointly and severally liable for:

Adjournment Fee	= \$1,125.00
Forum Fees	= \$2,812.50
Total Fees	= \$3,937.50
Less payments	= \$1,125.00

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Balance Due NASD Dispute Resolution, Inc.	= \$2,812.50
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All balances are due and payable to NASD Dispute Resolution, Inc. immediately upon receipt of the Award by the parties pursuant to Rule 10330(g) of the Code.

**ARBITRATION PANEL**

Lemoine D. Pierce, J.D.	-	Public Arbitrator, Presiding Chair
David D. Brown, Esq.	-	Public Arbitrator
George W. Morris	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

\_\_\_\_\_/S/  
Lemoine D. Pierce, J.D.  
Public Arbitrator, Presiding Chair

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

\_\_\_\_\_/S/  
David D. Brown, Esq.  
Public Arbitrator

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

/S/

**George W. Morris**

### Non-Public Arbitrator

Signature Date

April 30, 2002

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