

# **STIPULATED AWARD**

**NASD Dispute Resolution, Inc.**

---

In the Matter of the Arbitration Between

Name of Claimant

Joan C. Nigliazzo

Case No. 00-05347

Names of Respondents

PFS Investments, Inc.  
Jack Alan Sapolsky

Hearing Site: Boca Raton, Florida

---

## **REPRESENTATION OF PARTIES**

For Joan C. Nigliazzo ("Nigliazzo"), hereinafter referred to as "Claimant": David H. Zimmer Esq., Boca Raton, Florida.

For PFS Investments, Inc. ("PFSI") and Jack Alan Sapolsky ("Sapolsky"), hereinafter referred to as "Respondents": Jason Haselkorn, Esq., Boose Casey Ciklin Lubitz Martens McBane & O'Connell, West Palm Beach, Florida.

## **CASE INFORMATION**

Statement of Claim filed on or about: November 20, 2000.

Claimant signed the Uniform Submission Agreement on: November 16, 2000.

Joint Statement of Answer filed by Respondents on or about: February 26, 2001.

Respondent Sapolsky signed the Uniform Submission Agreement on: February 26, 2001.

Respondent PFSI's Uniform Submission Agreement signed on: February 23, 2001, by John S. Watts, III, Esq., Vice President, Assistant General Counsel, on behalf of the firm.

## **CASE SUMMARY**

Claimant alleged that Respondents failed to timely execute her order to liquidate her Van Kampen mutual funds and that such failure constituted a breach of contract, negligence or omission, breach of fiduciary duty, a breach of industry rules, and/or violation of Section 517, Florida Statutes.

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

## **RELIEF REQUESTED**

Claimant requested an Award of compensatory damages in the amount of \$44,910.21,

punitive damages in the amount of \$55,089.79, reasonable attorney's fees, interest on all losses suffered by the Account, recovery of all costs, expenses and disbursements, and such other further relief deemed just and proper by the Panel.

Respondents requested the following: a dismissal of the Statement of Claim, with prejudice; that Claimant be assessed Respondents' attorney's fees, costs and expenses incurred in the defense of this matter; and, the Expungement of all references to this matter from Respondent Sapolsky's Central Registration Depository ("CRD") record.

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

On or about January 16, 2002, the Parties filed with NASD Dispute Resolution, Inc. (the "NASD") a document entitled Stipulation to Dismiss and Expunge Jack Sapolsky's Records, wherein the parties agreed to the following: that this matter be dismissed, with prejudice; a dismissal of all claims against Respondent Sapolsky, with prejudice; that said dismissal shall be a bar to the bringing of any action based on or including the claims or counterclaims for which this action has been or could have been brought against Respondents by Claimant or against Claimant by Respondents; that Claimant and Respondents, as to each other, shall bear their respective costs and attorneys' fees; and, that all references to this matter be expunged from Respondent Sapolsky's CRD record.

The parties have agreed that the Stipulated Award may be executed in counterpart copies or that a handwritten, signed Award may be entered.

### **AWARD**

After considering the pleadings and the Stipulation to Dismiss and Expunge Jack Sapolsky's Records, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. All claims against Respondents PFSI and Sapolsky are hereby dismissed, with prejudice.
2. The Panel recommends the expungement of all references to the above-captioned matter from the CRD record of Respondent Sapolsky with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Sapolsky must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

### **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 = \$225.00

**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 = \$1000.00  
Pre-hearing process fee = \$ 600.00

**Adjournment Fees**

There were no adjournment requests during these proceedings.

**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 arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less.

No forum fees were incurred during these proceedings as no hearing sessions were conducted.

**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.

No administrative costs were incurred during these proceedings.

**Fee Summary**

Claimant be and hereby is solely liable for:

Initial Filing Fee = \$ 225.00

---

Total Fees = \$ 225.00

Less payments = \$ 225.00

---

Balance Due NASD Dispute Resolution, Inc. = \$ 0.00

Respondent PFSI be and hereby is solely liable for:

Member Fees	= \$ 1600.00
<hr/>	
Total Fees	= \$ 1600.00
Less payments	= \$ 1600.00
<hr/>	
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

**ARBITRATION PANEL**

Ellen J. Abrams	-	Public/Presiding Chair
G. Brooks Euler, Jr.	-	Non-Public/ Panelist
Tracy L. Gerber	-	Public/Panelist

**Concurring Arbitrators' Signature(s)**

\_\_\_\_\_/s/\_\_\_\_\_  
Ellen J. Abrams  
Public Arbitrator/Presiding Chair

2/1/02  
Signature Date

\_\_\_\_\_/s/\_\_\_\_\_  
G. Brooks Euler, Jr.  
Non-Public Arbitrator

2/2/02  
Signature Date

\_\_\_\_\_/s/\_\_\_\_\_  
Tracy L. Gerber  
Public Arbitrator

2/11/02  
Signature Date

February 14, 2002  
Date of Service  
(for NASD Dispute Resolution Office Use Only)

Respondent PFSI bc and hereby is solely liable for:

Member Fees = \$ 1600.00

---

Total Fees = \$ 1600.00

Less payments = \$ 1600.00


---

Balance Due NASD Dispute Resolution, Inc = \$ 0.00

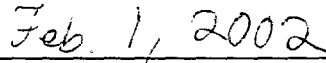
**ARBITRATION PANEL**

Ellen J. Abrams	-	Public/Presiding Chair
G. Brooks Euler, Jr.	-	Non-Public/ Panelist
Tracy L. Gerber	-	Public/Panelist

**Concurring Arbitrators' Signature(s)**



Ellen J. Abrams  
Public Arbitrator/Presiding Chair



Signature Date

G. Brooks Euler, Jr.  
Non-Public Arbitrator

Signature Date

Tracy L. Gerber  
Public Arbitrator

Signature Date

Date of Service  
(for NASD Dispute Resolution Office Use Only)

Respondent PPSi be and hereby is solely liable for:

Member Fees = \$ 1600.00

---

Total Fees = \$ 1600.00

Less payments = \$ 1600.00

---

Balance Due NASD Dispute Resolution, Inc = \$ 0.00

**ARBITRATION PANEL**

Ellen J. Abrams	-	Public/Presiding Chair
G. Brooks Euler, Jr.	-	Non-Public/ Panelist
Tracy L. Gerber	-	Public/Panelist

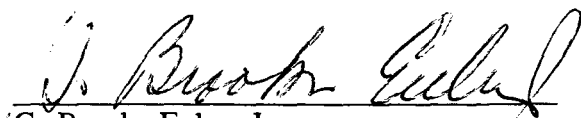
**Concurring Arbitrators' Signature(s)**

---

Ellen J. Abrams  
Public Arbitrator/Presiding Chair

---

Signature Date



G. Brooks Euler, Jr.  
Non-Public Arbitrator



Signature Date

---

Tracy L. Gerber  
Public Arbitrator

---

Signature Date

---

Date of Service  
(for NASD Dispute Resolution Office Use Only)

Respondent PFSI be and hereby is solely liable for:

Member Fees = \$ 1600.00

---

Total Fees = \$ 1600.00

Less payments = \$ 1600.00

---

Balance Due NASD Dispute Resolution, Inc = \$ 0.00

**ARBITRATION PANEL**

Ellen J. Abrams	-	Public/Presiding Chair
G. Brooks Euler, Jr.	-	Non-Public/ Panelist
Tracy L. Gerber	-	Public/Panelist

**Concurring Arbitrators' Signature(s)**

---

Ellen J. Abrams  
Public Arbitrator/Presiding Chair

---

Signature Date

---

G. Brooks Euler, Jr.  
Non-Public Arbitrator


---

Signature Date



---

Tracy L. Gerber  
Public Arbitrator



---

Signature Date

---

Date of Service  
(for NASD Dispute Resolution Office Use Only)

NASD DISPUTE RESOLUTION, INC.

CASE NO. 00-5347

JOAN C. NIGLIAZZO,

Claimant,

vs.

JACK SAPOLSKY and  
PFS INVESTMENTS,

Respondents.  
\_\_\_\_\_ /

RECEIVED

JAN 12 1999

FL ARBITRATION

**STIPULATION TO DISMISS AND EXPUNGE JACK SAPOLSKY'S RECORDS**

IT IS HEREBY STIPULATED AND AGREED by and between counsel for Claimant, Joan C. Nigliazzo ("Claimant"), and counsel for Respondents, Jack Sapolsky ("Sapolsky") and PFS Investments ("PFS") (collectively the "Respondents"), that this matter be dismissed with prejudice. It is further Stipulated and Agreed that Claimant and Respondents, as to each other, shall bear their respective costs and attorney's fees.

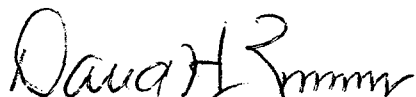
IT IS FURTHER STIPULATED AND AGREED that said dismissal shall be a bar to the bringing of any action based on or including the claims or counterclaims for which this action has been or could have been brought against Respondents by the Claimant or against the Claimant by the Respondents.

IT IS FURTHER STIPULATED AND AGREED that this matter be expunged from Sapolsky's permanent Central Registration Depository ("CRD") records.

WHEREFORE, the parties hereto request that the NASD dismiss this arbitration with prejudice as to Respondents.

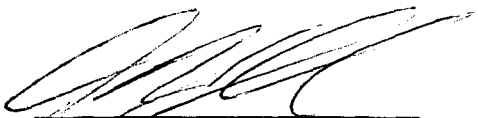


WHEREFORE, it is further requested that the NASD expunge this matter from Sapolsky's permanent CRD records.



David H. Zimmer, Esq.  
6477 Northwest 38<sup>th</sup> Way  
Boca Raton, FL 33496  
561-239-3004; fax 561-912-0236  
Attorney for Claimant

DATED: 12/20/01



Richard L. Martens, Esq.  
Jason S. Haselkorn, Esq.  
Boose Casey Ciklin Lubitz  
Martens McBane & O'Connell  
515 North Flagler Drive, 19<sup>th</sup> Floor  
West Palm Beach, FL 33401  
561-832-5900; fax 561-833-4209  
Attorneys for Respondents

DATED: 1-15-02